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IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

UNITED STATES STEEL CORPORATION, ET AL. ON BEHALF OF THEMSELVES AND ALL PERSONS SIMILARLY SITUATED, *Appellants,*

v.

MULTISTATE TAX COMMISSION, ET AL., *Appellees*

On Appeal from the United States District Court for the Southern District of New York

BRIEF FOR APPELLANTS

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v.

MULTISTATE TAX COMMISSION, ET AL., *Appellees*

On Appeal from the United States District Court for the Southern District of New York

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BRIEF FOR APPELLANTS

The appellants[1] file this appeal to review the judgment of the United States District Court for the

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[1] The plaintiffs below were United States Steel Corporation, Standard Brands Incorporated, General Mills, Inc., and The Procter & Gamble Distributing Company. On February 5, 1974, the court below permitted Bristol Myers Co., Eltra Corporation, Goodyear Tire and Rubber Company, Green Giant Company, International Business Machines Corporation, International Harvester Company, International Paper Company, International Telephone and Telegraph Corporation, McGraw-Hill, Inc., NL Industries, Inc., Union Carbide Corporation, and Xerox Corporation to intervene as plaintiffs. The court below ordered that the suit proceed

Southern District of New York entered July 14, 1976, granting appellees[2] summary judgment and upholding the constitutionality of the Multistate Tax Compact.

OPINION BELOW

The opinion of the District Court is reported in 417 F. Supp. 795 (S.D.N.Y. 1976).[3] An earlier opinion on

as a class action. International Business Machines and Xerox later withdrew as intervenor plaintiffs before decision to avoid having Judge Brieant recuse himself at a pre-trial hearing as he held stock in both corporations.

The original plaintiffs and the remaining intervenors are the appellants here.

[2] Appellees named as defendants in the case below are the Multistate Tax Commission, Eugene P. Corrigan, Executive Director of the Multistate Tax Commission, and Eric E. Wohlforth (Alaska), Richard Heath (Arkansas), John H. Heckers (Colorado), J. Ed. Straughn (Florida), Ralph W. Kondo (Hawaii), Ewing H. Little (Idaho), Jas. O. Mathis (Indiana), James T. McDonald (Kansas), Allison Green (Michigan), James Schaffner (Missouri), J. Morley Cooper (Montana), Wm. E. Peters (Nebraska), John J. Sheenan (Nevada), Fred L. O'Cheskey (New Mexico), Byron L. Dorgan (North Dakota), Charles H. Mack (Oregon), Robert F. Calvert (Texas), Vernon L. Holman (Utah), George Kinnear (Washington), and E. S. MacClean (Wyoming), all Commissioners of the Multistate Tax Commission from their respective states. George E. Mahin, Tax Commissioner of the State of Illinois, was named as a defendant at the start of the suit, but Illinois withdrew from the Multistate Tax Compact and the Multistate Tax Commision on August 29, 1975, and Mahin was not listed as a defendant in the lower court's caption of the case. Florida also withdrew from the Compact, effective October 1, 1976. Wyoming withdrew February 22, 1977. Since the suit was started, California and South Dakota have become members of the Multistate Tax Compact and Commission. Alabama has adopted the Compact subject to the consent of Congress.

[3] This opinion is reproduced as Appendix A (pp. 1a-21a) in the separately bound Appendix to the Jurisdictional Statement.

motion to dismiss is reported at 367 F. Supp. 107 (S.D.N.Y. 1973).[4]

JURISDICTION

The Judgment of the District Court was entered July 14, 1976.[5] Notice of Appeal was filed on September 7, 1976,[6] and the Jurisdictional Statement was filed on November 4, 1976. Probable jurisdiction was noted on February 22, 1977.

The jurisdiction of this Court rests on 28 U.S.C. 1253.

QUESTIONS PRESENTED

1. Whether the Multistate Tax Compact, as enacted and applied, is invalid because it has failed to obtain the consent of Congress, in violation of Article I, Section 10 of the Constitution of the United States.

2. Whether the Multistate Tax Compact, as enacted and applied, is invalid because it burdens interstate commerce, in violation of Article I, Section 8 of the Constitution of the United States.

3. Whether the Multistate Tax Compact, as enacted and applied, is invalid because it fails to provide adequate notice, standards of conduct, and remedies to those which it seeks to regulate, in violation of Section 1 of the Fourteenth Amendment.

[4] This opinion is reproduced as Appendix B (pp. 22a-47a) in the separately bound Appendix to the Jurisdictional Statement.

[5] The Judgment is reproduced as Appendix C (pp. 48a-50a) in the separately bound Appendix to the Jurisdictional Statement.

[6] The Notice of Appeal is reproduced as Appendix D (pp. 51a-53a) in the separately bound Appendix to the Jurisdictional Statement.

4. Whether the District Court erred in deciding the case for the appellee upon a motion for summary judgment.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Section 10 of Article I of the Constitution of the United States provides, in part:

> "No State shall, without the Consent of Congress . . . enter into any Agreement or Compact with another State . . ."

Section 8 of Article I of the Constitution of the United States provides, in part:

> "The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States . . ."

Section 1 of the Fourteenth Amendment of the Constitution of the United States provides, in part:

> "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The Multistate Tax Compact is reproduced as Appendix E (pp. 54a-79a) in the separately bound Appendix to the Jurisdictional Statement.[7]

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[7] The version reproduced is the model version. The state code citations are as follows: Alaska, Alas.Stat. § 43.10.010; Arkansas, Ark.Stat. 1947, § 84-4101; Colorado, Colo.Rev.Stat. 1973, Art. 24-60-301; Florida, Fla.Stat.Ann. § 213.15, repealed Fla. Sessions Law 76-149; Hawaii, Hawaii Rev.Stat. § 255-1; Idaho, Idaho Code § 63-3701; Indiana, Burns' Ind.-Stat.Ann. § 6-8-9-101; Kansas, Kan.Stat.Ann. § 79-4301; Michigan, Mich. Comp.Laws Ann. § 205.-581; Missouri, Mo.Rev.Stat., 1969, § 32.200; Montana, Mont.Rev. Code 1947, § 84-6701; Nebraska, Neb.Rev.Stat. 1943, § 77-2901; Nevada, Nev.Rev.Stat. § 376.010; New Mexico, N.M.Stat.Ann. 1953 § 72-15A-37, 44; North Dakota, N.D.Cent.Code, § 57-59-01; Oregon, Or.Rev.Stat. § 305.655; Texas Civil Stat., Art. 7359a; Utah, Utah Code Ann. 1953, § 59-22-1; Washington, Wash.Rev.Code Ann., § 82.56; Wyoming, Wyo.Stat. 1957, § 39-376. California adopted the Compact effective January 1, 1976. Deering Calif. Code Ann. (Rev. & Tax), § 38001. South Dakota became a member July 1, 1976. S.D.Comp. Laws 10-54. Wyoming withdrew from the Compact on February 22, 1977.

STATEMENT

The Multistate Tax Compact was drafted in 1966, and became effective by its own terms on August 4, 1967, when the seventh state adopted it. Twenty states have now joined in the Compact by statutory enactment.

The history of the period immediately preceding the drafting and adoption of the Compact is significant. In 1959, this Court decided *Northwestern States Portland Cement Co.* v. *Minnesota*, 358 U.S. 450, and immediately thereafter Congress enacted a statute which, in Title I, provided certain rules for the taxation of income from interstate commerce.[8] The statute also included a Title II, which provided that "full and complete studies" should be made under the auspices of Congress "for the purpose of recommending to Congress proposed legislation providing uniform standards to be observed by the states in imposing income taxes on income" derived from interstate commerce.[9]

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[8] Act of September 14, 1959, P.L. 86-272, 73 Stat. 555.

[9] *Ibid.*, 73 Stat. at 556.

This report was rendered in 1964 and 1965, and it recommended that Congress should seek a solution to interstate tax problems.[10] It was shortly thereafter that the Multistate Tax Compact was drafted at the instance of several state tax administrators, and put into effect.

Article VI of the Compact creates the Multistate Tax Commission, an independent body designed to implement and administer the Compact. The Commission is composed of one member from each of the participating states, who together appoint an Executive Director as chief administrator of the Compact. Serving under the Executive Director are auditors and other officials who carry out the business of the Commission. The Commission's headquarters are in Boulder, Colorado, a location convenient to its largely western state membership, and the Commission's General Counsel maintains offices in Olympia, Washington. The Commission also has audit offices in Chicago and New York City.

The Multistate Tax Compact grants the Commission various powers. For example, the Commission can issue regulations, adopt practices, and prescribe uniform forms for the taxation of interstate business. The Commission has adopted a number of regulations and practices pursuant to this power, including those calling for combined reporting, and the apportionment of the non-business income of multistate taxpayers.[11]

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[10] Report of Special Subcommittee on State Taxation of Interstate Commerce, H. Rep. No. 1480, 88th Congress, 2d Sess., Vol. II, (1964) p. 559. *See also* H. Rep. No. 1480, 88th Cong., 2d Sess., Vol. I (1964); H. Rep. No. 565, 89th Cong., 1st Sess., Vol. 3 (1965); H. Rep. No. 952, 89th Cong., 1st Sess., Vol. 4 (1965).

[11] The power to issue regulations is contained in Article VII of the Compact. The rules and practices adopted by the Commission are discussed below.

The Commission is also empowered to conduct multistate audits. These multistate audits are effectuated by the broad subpoena authority possessed by the Commission.[12] The Commission has performed numerous such audits, in as many as eleven states at one time, involving large sums of money and taxpayers conducting interstate and international businesses. These audits have often been conducted pursuant to the Commission's combined reporting and full apportionment rules.

The Multistate Tax Compact has not received the consent of Congress, although numerous bills have been introduced seeking such consent.[13] The appellants are all interstate and international business corporations, and multistate taxpayers, who have been subjected to demands by the Multistate Tax Commission to submit to audits conducted by the Commission. Appellants have refused such demands, in all cases offering to submit to lawful audits conducted by the states involved. The appellants have also offered to waive the applicable statutes of limitations while they pursued this action.

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[12] The power to conduct multistate audits and the power to issue subpoenas is contained in Article VIII of the Compact.

[13] *See* S. 3892, 89th Cong., 2d Sess. (1966); S. 883, 90th Cong., 1st Sess. (1967); S. 1551, 90th Cong., 1st Sess. (1967); H.R. 9476, 90th Cong., 1st Sess. (1967); H.R. 13682, 90th Cong., 1st Sess. (1967); S. 1198, 91st Cong., 1st Sess. (1969); H.R. 6246, 91st Cong., 1st Sess. (1969); H.R. 9873, 91st Cong., 1st Sess. (1969); S. 1883, 92d Cong., 1st Sess. (1971); H.R. 6160, 92d Cong., 1st Sess. (1971); S. 3333, 92d Cong., 2d Sess. (1972); S. 2092, 93d Cong., 1st Sess. (1973). The member states and the Commission have lobbied vigorously for such consent. *See* the Annual Reports of the Multistate Tax Commission, 1968-1976.

Proceedings Below

This action was commenced by the filing of a complaint in August, 1972. An amended complaint was filed on January 10, 1973, seeking both a declaratory judgment that the Multistate Tax Compact, as then adopted by twenty-one states, was invalid under the United States Constitution, and a permanent injunction barring its operation and enforcement. (App. 2-10.)

Before answering the complaint, appellees moved to dismiss the action on the ground that appellants had failed to state a claim upon which relief could be granted. (App. 11-12.) Judge Tenney dismissed this argument as "frivolous," stating that the case would have to be decided on the merits. 367 F. Supp. 107 (S.D.N.Y. 1973).[14]

Appellees answered the complaint in September 1973 (App. 14-18), and appellants filed a set of interrogatories in October.

By a memorandum order dated February 5, 1974, Judge Tenney granted a motion by various multistate corporations to intervene as plaintiffs, and ordered the suit to proceed as a class action with appellants and intervenor-plaintiffs as class representatives.[15]

In June, 1975, appellees moved for summary judgment and requested that the motion be heard by a three-judge court. (App. 20-42.) Appellants opposed the motion, arguing that substantial questions of fact

[14] This opinion is reproduced as Appendix B (pp. 22a-47a) in the separately bound Appendix to the Jurisdictional Statement.

[15] This order is reproduced as Appendix F (pp. 80a-89a) in the separately bound Appendix to the Jurisdictional Statement.

needed to be resolved before it could be said that the enactment, operation, and enforcement of the Multistate Tax Compact did not affect the national interest, or the interests of states not members of the Compact, so as to require the consent of Congress. Additional facts also had to be developed to determine the degree and nature of the effect the Compact had on interstate commerce and rights guaranteed by the Fourth and Fourteenth Amendments. (App. 43-68.)

In the alternative, appellants asked for summary judgment in their favor. They contended that under a proper construction of the Constitution, the Multistate Tax Compact was unconstitutional because it lacked the consent of Congress. Appellants also argued that the Compact encroached upon the commerce power of Congress.

The district court granted summary judgment in favor of appellees on July 14, 1976.[16] In holding that the Multistate Tax Compact does not require the consent of Congress, the court relied primarily on *Virginia* v. *Tennessee,* 148 U.S. 503 (1893), and *New Hampshire* v. *Maine,* 426 U.S. 363 (1976). The court held that the Compact does not increase the political power of the member states or interfere with the national interest.

The court also held that the Compact does not encroach upon the federal commerce power or unreasonably interfere with such commerce. The Court stated that interstate taxation is not a matter of peculiar federal concern: "There is nothing inherent in the problems of multistate tax administration that would re-

[16] The opinion of the three-judge court is reproduced as Appendix A (pp. 1a-21a) in the separately bound Appendix to the Jurisdictional Statement.

quire federal regulation, nor has Congress yet identified these problems as a matter of peculiar federal concern." 417 F. Supp. at 802. (App. A to Juris. Statement, p. 13a.)

The decision also rejected the various arguments appellants had made under the Fourth and Fourteenth Amendments.

The opinion noted that related cases in other federal courts and various state courts were awaiting disposition of this action. Many cases are still awaiting the action of this Court.

Notice of appeal was filed September 7, 1976, and probable jurisdiction was noted February 22, 1977.

SUMMARY OF ARGUMENT

I

Article I, Section 10 of the Constitution forbids any state from entering into an "Agreement or Compact" with any other state "without the Consent of Congress." Despite this explicit constitutional proscription, the Multistate Tax Compact has been placed in operation without congressional consent, although such consent has been sought repeatedly.

Few compacts were formed prior to 1921, and those that were involved primarily one-time, one-place boundary settlements between two states. Since 1921, however, when Congress consented to the Colorado River Compact and New York Port Authority Agreement, the compact has been increasingly used as a constitutional means of resolving interstate problems. These post-1921, "modern" compacts, uniting many states, treating complex issues, and often creating multistate

commissions, are fundamentally different from boundary agreements.

Congress has recognized and exercised its constitutional duty during this increase in the number of complex compacts, examining and consenting to 125 of 139 compacts as of 1966. Moreover, congressional scrutiny in this field has often been particularly rigorous. Such congressional scrutiny gives Congress the opportunity to review, and in many cases monitor on an ongoing basis, the effects of the compact involved.

The Multistate Tax Compact is similar to the many modern compacts which have sought and obtained congressional approval. It unites 20 primarily western states, treats the complex problem of multistate and multinational taxation, and creates the Multistate Tax Commission, a regional administrative body empowered to promulgate tax regulations and conduct multistate audits. The Multistate Tax Compact, however, differs from other compacts in one significant way. Despite the unambiguous language of the Constitution and the clear evidence of congressional activity in this field, the Compact is operating without the consent of Congress. Thus, the Compact is constrained by none of the safeguards Congress has used repeatedly to protect our federal system from the harm that may be produced by regional actions. The court below refused to upset the Compact's self-proclaimed validity until actual harm was shown.

Since almost all compacts have sought and obtained congressional consent, few cases questioning the validity of a compact lacking congressional consent have reached this Court. No case has ever upheld the validity of a compact involving many states and an inde-

pendent commission, to which Congress has not consented. Several cases involving bilateral boundary disputes, however, have noted in dicta that congressional consent is not needed unless the interests of the Nation or non-member states are affected. Although the court below relied on these cases, they should not control a modern, complex compact. The potential impact of such a compact, unlike the impact of a one-time, one-place boundary agreement, is not readily determinable. No group of states, therefore, acting pursuant to the dicta of the boundary cases, should be able to decide for itself that a multistate confederation is valid, or that such a confederation presents no potential threat to the Nation or non-member states. This is particularly true where the compact is intended to transform interstate taxation through continuous regional actions and the efforts of an administrative commission.

II

Even if this Court decides that a compact may be put in operation without congressional approval when the party states decide that the compact will not affect federal interests or other states, the Multistate Tax Compact should be declared invalid until congressional approval is obtained. The Multistate Tax Compact has already interfered with the Nation's conduct of foreign affairs and its interest in efficient interstate commerce. For example, the Multistate Tax Commission has adopted regulations and practices which subject income earned in foreign nations to taxation in the Compact states even if such income is not considered taxable under federal principles. The Commission's rules are contrary to international practice, United States treaty commitments, and federal principles, and

have provoked complaints from many of our treaty partners. A recent treaty concluded with the United Kingdom provides for relief from the Commission's rules, and recent legislative proposals would ban the use of such rules in the international field. The Commission has indicated, however, that it will oppose the treaty and other federal action limiting its power.

III

The Multistate Tax Commission also has adopted rules altering the method of taxing dividends, interest, and other non-business income traditionally employed in interstate commerce, thus affecting the interests of non-Compact states. Such income is usually allocated to, and thus taxable in, only the state of commercial domicile. In many cases, this means that such income is taxable in eastern, non-Compact states. The Commission, however, may apportion, or "share," such income with the Compact states. This practice may produce a revenue loss in the non-member states, or result in multiple taxation of corporations domiciled in the non-member states. Corporations may migrate from the east coast to avoid this latter result, and the non-Compact states may be forced to form a compact of their own. This and other issues, including loss of sovereignty to the Commission, have caused many states to oppose the Compact, and at least three states to repudiate their membership.

IV

The Multistate Tax Compact also burdens interstate commerce and violates the guarantees of the Fourteenth Amendment. The Compact and Commission produce confusion, inefficiency, inconsistent tax deter-

minations, and multiple taxation. Standards for compliance are unclear, and remedies inadequate. Moreover, the powers inherent in the Compact and the rules of the Commission have been used abusively during the pendency of this case. Subpoena campaigns have been conducted and arbitrary tax assessments issued, pursuant to a Commission plan intended to force appellants in this case to "capitulate." Such actions should not be allowed to continue until the Compact has been subjected to congressional scrutiny, and unless the affirmative approval of Congress is obtained.

ARGUMENT

I. THE SCOPE AND OPERATION OF THE COMPACT CLAUSE

A. Congress Has Actively Reviewed and Approved Compacts Among The States, As Required By The Constitution.

The constitutional question presented in this case is whether a compact which unites most of the western states and creates an independent, regional administrative body designed to affect the apportionment, allocation, audit, and compliance procedures applicable in the taxation of multistate and multinational corporations is valid in the absence of congressional consent. The requirement of consent is explicit in the Constitution. Article I, Section 10 provides that "No State shall, without the consent of Congress, . . . enter into any Agreement or Compact with another State." Congress has recognized its constitutional responsibility under Article I, Section 10, and has examined almost every compact formed since the creation of this Nation.

During the first 120 years following the adoption of the Constitution, 26 compacts between the states were

put into operation with the consent of Congress.[17] Twenty-five of these compacts involved boundary matters, and 24 involved only two states. None of these compacts created a permanent interstate administrative agency. Compacts at this time were regarded as a means of adjustment or settlement of specific situations or controversies and were not looked on as instruments for the continuous exercise of power or development of policy.

In 1921, the Colorado River Compact and the Port of New York Authority Agreement were approved by Congress.[18] These compacts were radically different from those that had gone before. Both were intended to address a variety of problems, changing over time, and neither consisted of a one-time, one-place boundary agreement. The Colorado River Compact involved the water problems of an entire region, and was eventually joined by eight states. The Port of New York Authority Agreement created a joint planning and administrative agency designed to define problems and seek solutions on an interstate basis.

After the consent of Congress was given to these two compacts, agreements among the states increased dramatically. The first national compact, the Interstate Compact for the Supervision of Parolees and Proba-

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[17] *See* Frankfurter & Landis, *The Compact Clause of the Constitution—A Study in Interstate Adjustments*, 34 Yale L. J. 685, 735 (1925). Frankfurter & Landis list seven additional compacts approved in advance by Congress before 1920, but which were not concluded by the states involved.

[18] Colorado River Compact of 1921, 42 Stat. 171 (1921); Port of New York Authority Agreement, 42 Stat. 174 (1921), 42 Stat. 822 (1922).

tioners, was approved by Congress in 1934.[19] The Interstate Compact to Conserve Oil and Gas, which was the first compact formally establishing a commission to recommend state regulations and uniform state practices in an economic context, was approved by Congress in 1935.[20] Interstate regulatory machinery was proposed in the Tri-State Compact and Ohio Valley Sanitation Compact, consented to by Congress in 1935 and 1940 respectively.[21] All in all, 65 compacts were concluded between 1921 and 1955, more than double the number which were created in the first 120 years following the adoption of the Constitution.[22]

This sudden rise in the number of compacts was the result of the increasing complexity and interrelationship of the social, economic, and political problems facing the states and the Nation. While not necessarily amenable to federal resolution nor subject to the doctrine of federal preemption, such problems were not always confined to a single state. As a result, the compact was increasingly resorted to as the constitutional device permitting an interstate or regional approach to these problems. In our federal system, the Constitution allows such interstate or regional action as long as the states do not unilaterally combine or agree, but in-

[19] This compact is identified as the first national compact by The Council of State Governments, INTERSTATE COMPACTS 1783-1966, p. vii. The compact was consented to in the Federal Crime Control Act of 1934, 48 Stat. 909 (1934).

[20] 49 Stat. 939 (1935).

[21] Tri-State Compact (also known as the Interstate Sanitation Compact), 49 Stat. 932 (1935); Ohio Valley Sanitation Compact, 54 Stat. 752 (1940).

[22] Barton, INTERSTATE COMPACTS IN THE POLITICAL PROCESS (1967).

stead subject their plans to the review and approval of Congress.

By 1966, 139 compacts were in operation, and 125 of these had sought and obtained the consent of Congress.[23] These modern compacts produced at least 62 advisory or regulatory commissions, functioning on a multistate basis. These multistate commissions deal with pollution, oil conservation, nuclear energy, water allocation, urban development, transportation, taxation, and other complex issues fundamentally distinguishable from boundary agreements. Of the compacts which include multistate commissions, all but five have received congressional approval.

[23] This information was obtained from The Council of State Governments, INTERSTATE COMPACTS 1783-1966. This source actually lists 144 compacts, but some were formed before the adoption of the Constitution and one was listed under two different names and counted twice. Since the publication of this source, at least one of the compacts described as lacking congressional consent has obtained such consent. *See* Great Lakes Basin Compact, consented to at 82 Stat. 414 (1968).

A chronological compilation of compacts approved since 1789, including congressional approval of amendments, new members, and renewals, is included as Supplement A to this brief at pp. 53-70. This is followed by the alphabetical compilation of the Council of State Governments in Supplement B, at pp. 71-120. There is some duplication in the two listings, but each presents information which may be useful to the Court.

The compacts other than the Great Lakes Basin Compact which were operating in 1966 without the consent of Congress are listed in Supplement C to this brief at p. 121. Some of the compacts operating without the consent of Congress resemble reciprocal legislation, and at least two involve only two states. Most of the compacts do not create independent multistate commissions, and most appear to have less potential impact than the Multistate Tax Compact. Nevertheless, the validity of the compacts must be questioned in view of their subject matter and in the absence of congressional consent.

Since 1966, 16 more compacts have received the consent of Congress, and at least 10 of these involve multistate commissions. Moreover, as of 1970, 13 additional compacts specifically acknowledged that the consent of Congress was required and were awaiting such consent to become effective.[24] The modern compact has been the subject of congressional scrutiny because the real and potential effects of continuous, concerted multistate activity are substantially different from those produced by the single, dispositive decision involved in a boundary settlement. Thus, during the rise in the use of modern compacts, even those compacts which appeared entirely innocuous have, with very few exceptions, undergone congressional examination.[25]

In considering the many modern compacts brought before it, Congress has not taken its constitutional duty lightly. For example, before consenting to the Compact on Taxation of Motor Fuels Consumed by Interstate Buses and the Bus Taxation Proration and Reciprocity Agreement, Congress consulted the Commerce Department, Justice Department, Interior Department, State Department, Treasury Department, and District of Columbia, and further consent was required before additional states could join.[26] Congres-

[24] *See* The Council of State Governments, INTERSTATE COMPACTS 1783-1970.

[25] *See, e.g.*, the Kansas City Waterworks Compact, which provided for mutual relief from taxation on the water facilities in Kansas City, Kansas, and Kansas City, Missouri, and which was approved by Congress at the beginning of the rise in the number of compacts, 42 Stat. 1058 (1922), and the Cumbres and Toltec Scenic Railroad Compact, which permitted two states to pool finances to preserve an antique railroad and which was approved by Congress in 88 Stat. 1421 (1974).

[26] *See* H. Rep. No. 102, 89th Cong., 1st Sess. (1965); S. Rep.

sional consultation with various federal agencies is commonplace when compacts are brought before Congress. These consultations may produce objections to the compact or reveal real or potential interferences with the national interest or the rights of non-member states not considered by the members of the proposed compact. This may lead to prolonged debate, or cause Congress to withhold its consent. In fact, in at least two instances consent bills have been vetoed by the President.[27] This activity shows that the impact and approval of a multistate compact present complex questions, best answered in the political arena, and that the Congress and President have accepted and carried out the role prescribed for them by Article I, Section 10.

Congressional scrutiny has been particularly vigorous where multistate commissions are involved, even though almost all such commissions are organized as "advisory" bodies, with final authority in the states.[28]

No. 76, 89th Cong., 1st Sess. (1965). The consent of Congress appears at 79 Stat. 58 (1965).

[27] The Republican River Compact was vetoed April 2, 1942, H.R. Document No. 69, 77th Cong., 2d Sess. (1942). A compact concerning fishing in the Atlantic Ocean was vetoed August 11, 1939. *See* Zimmermann & Wendell, THE INTERSTATE COMPACT SINCE 1925 (1951), p. 38.

[28] For example, 20 of 29 multistate commissions were found to be "advisory" as of 1959 by Leach & Sugg, THE ADMINISTRATION OF INTERSTATE COMPACTS (1959). The court below relied heavily on the "advisory" structure of the Multistate Tax Commission, but the need for congressional consent is not negated by the fact that some of the tasks undertaken by a compact and multistate commission are matters that individual states could undertake alone. The Constitution has balanced the conflicting demands of state sovereignty and federalism by permitting the states to act individually without the advance approval of Congress. Where the states proceed by "Agreement or Compact," however, and

Although deemed "advisory," multistate commissions have offices, personnel, and budgets, and are formed to shape and implement interstate policy. Through regulations, bylaws, practices, coordination, and persuasion, multistate commissions effectuate change on a regional or interstate basis. Many such commissions are started to prevent federal action, mitigating pressures for federal intervention—even where federal intervention might be better for the non-member states and the Nation—and increasing the power and efficacy of the member states.

Mindful that multistate commissions are created to foster interstate change and that the full significance of concerted activity may not be initially apparent, Congress frequently places additional conditions on the consent given to compacts creating multistate commissions. For example, the consent given to the Interstate Compact to Conserve Oil and Gas must be renewed every four years.[29] This compact is much like the Multistate Tax Compact, in that its member states are "free" to adopt any part of the multistate agreement. In addition, the Oil Commission created by this compact is purely "advisory," conducting "studies"

intend to influence interstate events through continuing collective action and the efforts of an independent body, the consent of Congress is required. A multistate compact is inevitably an arrangement with power, presenting a greater potential threat to those states not party to the confederation, and to federal supremacy. Almost every compact containing a multistate commission, whether "advisory" or not, has sought and obtained the consent of Congress.

[29] The last renewal came at 90 Stat. 2365 (1976). The consent given the Atlantic States Marine Fisheries Compact, 56 Stat. 267 (1942), was also limited in duration to not more than 15 years. In 1950, Congress consented to an amendment to this compact and repealed the time limitation. 64 Stat. 467 (1950).

and issuing "recommendations" on the amount of oil that should be produced by the member states. Since 1935, however, such "advice" usually has been taken, and Congress has reviewed the antitrust, energy, and other implications of this compact every four years. In 1955, fully twenty years after the initial approval of this compact, Congress added a further condition to its consent, requiring the Attorney General of the United States to report annually on the activities of the Oil Commission, so that Congress might have current information on its effects.[30]

Congress has also required that annual reports be submitted by the multistate commissions themselves.[31] In addition, federal representation on multistate commissions has often been a condition of consent.[32] Congress has also rewritten compacts to conform to its conception of the national interest, and demanded that the amended version be accepted as a condition of consent.[33]

Where neither continuing information nor representation on a commission is required, Congress may limit its consent to the terms of the compact originally ap-

[30] *See* Joint Res. of July 28, 1955, sec. 2, 69 Stat. 385, 391 (1955).

[31] For example, annual reports are required from the Atlantic States Marine Fisheries Compact, 56 Stat. 267 (1942), the Pacific Marine Fisheries Compact, 61 Stat. 419 (1947), and the Wabash Valley Compact, 73 Stat. 694 (1959).

[32] The commissions on which federal representation is required include the Potomac Valley Conservancy Compact, 54 Stat. 748 (1940), Rio Grande Interstate Compact, 53 Stat. 785 (1939), Upper Colorado River Basin Compact, 63 Stat. 31 (1949), and the Wabash Valley Compact, 73 Stat. 694 (1959).

[33] This happened, for example, in the case of the Gulf States Marine Fisheries Compact, 63 Stat. 70 (1949).

Mr. Justice Field, of course, could not foresee the rise of the modern compact, and such compacts should not fall within the narrow scope of his statement in *Virginia* v. *Tennessee*. No group of states should be able to decide for itself that a multistate confederation is valid, nor should any group of states be able to decide that the interests of the other states or the Nation will not be harmed by a modern compact. This is particularly true where the objective of the compact is to transform interstate taxation through continuous, collective action and the efforts of an independent, on-going administrative body.

The decision of the court below was also reached by ignoring the potential impact of the Compact on the interests of the non-member states and the Nation. The court below believed that the self-proclaimed validity of the Compact should not be overturned until actual harm to the interests of the non-member states or the Nation was shown. This analysis is contrary to Justice Field's own statement in *Wharton* v. *Wise,* that compacts which "might" affect such interests need congressional approval. This analysis is also contrary to the importance placed on potential effects by Congress in reviewing and approving over 100 compacts. As discussed above, Congress consults with a wide-range of federal agencies and other sources of information to make certain a compact will not produce unforeseen harm, often requiring annual reports, periodic renewals of consent, and additional approval of new members or amendments.

The difficulty experienced by the court below in dealing with the potential effects of the Compact, and the contrasting means available to Congress to ascertain and weigh such effects, shows that the impact and

validity of a modern, multistate compact should be decided through the political process in Congress. Mr. Justice Frankfurter stated, in *West Virginia ex rel. Dyer* v. *Sims,* 341 U.S. 22, 27(1950), after considering a case involving a modern, multistate compact, that all compacts require congressional consent and that judicial determination of the impact of a compact would not be appropriate. The Multistate Tax Commission has already resorted to the political process to forestall federal legislation circumscribing, or perhaps even banning, its activities, and the Compact itself has been brought before Congress for approval, although no such approval was obtained. Apparently, the member states and the Commission were unwilling to negotiate and make possible changes sufficient to obtain congressional consent, as did the states of the Great Lakes Basin Compact, deciding instead to proceed without approval. This unilateral decision is contrary to Article I, Section 10. The Multi-state Tax Compact should not become valid until through the political process already invoked by the member states and Commission, the consent of Congress is obtained.

II. THE EFFECT OF THE COMPACT ON THE NATIONAL INTEREST

A. The Multistate Tax Compact Interferes With The Conduct Of Foreign Affairs.

If this Court should decide that the dictum of Mr. Justice Field is the controlling test under the Compact Clause, and that congressional consent is required only if a compact interferes with the interests of other states or the federal government, the Multistate Tax Compact should still be declared invalid unless and

proved. Thereafter, any new members or amendments to the compact require additional congressional consent to be valid. For example, the Bi-State Development Agency Compact, to which Congress consented,[34] provided that Congress should have the power to review rules and regulations adopted by the Bi-State Agency. Congress utilized these powers in 1959, when it reviewed and approved additional powers sought by the member states.[35] At that time Congress also reserved to itself the right to require the disclosure of information or data by the Bi-State Development Agency.

Congress need not, of course, amend or redraft a compact to which it objects, and can instead simply decline to consent. For example, the Great Lakes Basin Compact was drafted to promote the orderly development, use, and conservation of the resources of the Great Lakes Basin. Despite this seemingly constructive statement of purpose, Congress rejected the compact as first proposed.

The commission created by the Great Lakes Basin Compact planned to become involved in the resolution of water diversion problems on the Great Lakes, and to work closely with Canada on this and other matters. Objections were lodged by the State Department, Treasury Department, Interior Department, and Federal Power Commission. The Great Lakes Basin Compact was then amended to meet these objections, stripping the compact and its commission of almost all powers. Authority over water diversion and the ability to work formally with Canada were eliminated. Essentially, the compact and commission which were brought back to Congress for approval were empowered only to report on behalf of the member states and issue recommendations.

[34] 64 Stat. 568, 570 (1950).

[35] 73 Stat. 582 (1959).

The Congressional Committee which then considered the revised Compact wondered whether such an advisory compact required consent to be valid, and requested an opinion from the Attorney General. The Attorney General gave his opinion that consent was necessary. In discussing the "advisory" role of this Compact, the Attorney General noted the Compact's statement of purpose and the formality of the agreement among the Great Lake states, and stated: "While the powers of the Commission appear to be primarily to collect and report on data and to make recommendations which the members agree merely to 'consider,' the formulation of such important recommendations is itself an important function which may significantly influence the legislative function of the member states and thus shape the future development of the Great Lakes Basin."[36]

B. The Multistate Tax Compact, A Modern, Multistate Compact Creating An Independent Commission And Treating A Complex Problem, Requires The Consent Of Congress To Be Valid.

The Multistate Tax Compact has not received the consent of Congress, although such consent has been repeatedly sought.[37] The Compact was formed, in part,

[36] Hearings on H.R. 937, 89th Cong., 2d Sess. (1966), pp. 10-13. The opinion of the Attorney General is discussed in Ridgeway, INTERSTATE COMPACTS (1971) at p. 161. The Great Lakes Basin Compact was consented to at 82 Stat. 414 (1968).

[37] *See* note 13 above, p. 7.

to promote interstate tax uniformity and facilitate the determination of the state and local tax liability of multistate taxpayers, a general statement of purpose similar to that considered by Congress and the Attorney General in reviewing the Great Lakes Basin Compact. The Compact was drafted during 1966 following this Court's decision in *Northwestern States Portland Cement Co.* v. *Minnesota,* 358 U.S. 450 (1959), and as an aftermath of deliberations in Congress on interstate taxation leading to the enactment of the Act of September 14, 1959, P.L. 86-272, 73 Stat. 555 and the 1964 House Committee Report recommending congressional resolution of interstate tax problems.[38] Officials of the Compact have indicated that the Compact was created to forestall additional federal legislation on interstate taxation.[39] The twenty members of the Compact are primarily western states, and no eastern industrial state is now a member. The Compact is organized much like the Interstate Compact to Conserve Oil and Gas, with the member states "free" to adopt or reject specific provisions of the Compact. For example, the power to conduct multistate audits is applicable only in those states which have specifically adopted it. The multistate audit provisions, however, have been adopted by all the member states of the Compact.

[38] *See* note 10 above, p. 6.

[39] Mr. Corrigan, the Executive Director of the Multistate Tax Commission, has stated that one of the purposes of the Compact is "simply killing congressional action in this field." See Corrigan's statements in *Taxation of Interstate Business,* PROCEEDINGS OF TAX FOUNDATION SEMINAR (April 16-17, 1970), p. 17. *See also* First Annual Report of the Multistate Tax Commission (1968), p. 1. A tax policy research study conducted by the Department of the Treasury has also recognized that the Compact was formed to counteract federal legislation in this field. *See* ESSAYS IN INTERNATIONAL TAXATION (1976), p. 202.

As discussed above, the Compact creates the Multistate Tax Commission, a regional administrative body empowered to issue regulations and adopt practices to implement the interstate tax policies of the Compact. The Commission has adopted a number of regulations and practices pursuant to this power. These include:

(1) *Combined reporting.* Regulations and practices of the Commission call for use of the unitary business concept, which requires combined reporting on a multistate and multinational basis. Under this method of taxation, the income of a multicorporate business operation, earned in many states and countries, is "combined" as the income of a "unitary business" and subject to taxation in those Compact states in which one of the corporations of the multicorporate operation is present. Taxes are then imposed on the overall multistate and multinational income of the operation without regard to whether the income being taxed was earned by a taxpayer subject to the jurisdiction of the Compact state, and despite the fact that the relation between the corporations often falls short of affiliation under federal law.[40] Bills banning these regulations and practices

[40] The Ninth Annual Report of the Multistate Tax Commission (1976) describes the combined reporting and unitary business practices of the Commission thus (p. 3): "The utilization of this concept requires the use of an accounting approach called combination. This approach involves treating a unitary business as one entity whether it is operated as one corporation with many divisions or as a group of corporations. The determination of the income tax liability of any one of these corporations to a State is then made on the basis of the activities of the entire business." *See also* the explanation of the Audit Coordinator of the Commission, Frederick Cappetta, at Cappetta, *Joint Audit Program of the Multistate Tax Commission,* 33 INST. ON FED. TAX. (N.Y.U.) 961 (1975); the articles endorsing this method of taxation published in the Multistate Tax Commission Seventh Annual Report (1974); and the frequent discussion of combined reporting and full apportionment in other Annual Reports.

This Court first dealt with this method of taxation in *Butler*

member states of the compact, and not the federal government, it is understandable that foreign governments view these taxes as imposed in, and thus by, the United States, in a manner inconsistent with international tax principles and the treaty commitments of the United States.[51]

The United Kingdom demanded and obtained protection from these practices in its latest tax treaty negotiations with the United States.[52] The treaty was sent to the Senate for its advice and consent by President Ford on June 24, 1976, accompanied by the Report of the Department of State. In this Report, the State Department stated that the practices of some of our states had produced protests from many foreign governments and that the new provision was designed to meet such objections.[53] The Treasury Department

[51] A tax policy research study conducted by the Treasury Department stated that the worldwide application of the unitary business concept may indeed be inconsistent with basic United States treaty obligations. ESSAYS IN INTERNATIONAL TAXATION (1976), p. 264.

[52] The Ninth Annual Report of the Multistate Tax Commission (1976) reported on this development (p. 9):

> "The Treasury Department has included in the pending tax treaty with the United Kingdom provisions which would substantially shackle the States in their efforts to improve their tax administration capabilities. The objectionable provisions of the proposed United Kingdom Treaty would prohibit the use of combination at the international level in instances wherein the parents are located in the United Kingdom. Similar provisions are being incorporated into treaties which are currently being negotiated with other nations. This is especially unfortunate in view of the need to use international combination not only at the State level but at the Federal level as well."

[53] The Report stated:

> "This provision represents the first attempt to bind State and Local taxing authorities by a substantive provision of the

has also stated that the provision was intended to "harmonize" the tax practices of the national and state governments, by limiting the income taxable in a state to the income taxable under federal principles.[54]

> treaty (other than non-discrimination). Under the basic rules of our other tax conventions a Contracting State entering into such tax conventions is prohibited from taking into account, in determining the tax liability of an enterprise doing business in that Contracting State, the income, expenses, etc. of related enterprises of the other Contracting State, or in other countries if those enterprises are not engaged in business in the Contracting State, except to the extent that intercompany transactions are not conducted on an arm's length basis. This treaty, for the first time, extends this limitation to State and local tax authorities with respect to enterprises controlled by United Kingdom residents. This limitation is directed at the practice of a few States which are attempting to take into account the income on a consolidated basis of all related foreign enterprises in assessing the State income tax of a single member of the related group doing business in the State. This method of assessment, which includes the burden of producing worldwide records of all of the affiliated companies, has raised many objections by our treaty partners and we are now seeking to deal specifically with this problem in our treaties." CCH Tax Treaties ¶ 8103EE.

[54] *See* the TECHNICAL EXPLANATION OF THE UNITED STATES AND UNITED KINGDOM INCOME TAX TREATY, March 9, 1977. *See also* the remarks of Robert J. Patrick, International Tax Counsel for the Treasury Department, before the International Fiscal Association, New York, January 7, 1976, at p. 7:

> "We attach particular importance to the treaty provision which meets the request of the British Government to deal with excessive tax burdens imposed at the State level. In addition to the usual treaty provisions prohibiting discrimination against nationals and corporations of our treaty partners, which bind State and local authorities as well as the federal government, the treaty contemplates that State taxing jurisdictions are limited to the same inter-company allocation rules as the federal government when examining the accounts of a United Kingdom controlled company doing business in a State. . . . The income of such entity and any related United Kingdom controlled foreign company may be measured and adjusted only on the basis of arm's length principles and not on that of a consolidated income approach combining the income of separately incorporated companies."

have been introduced in Congress.[41]

(2) *Non-business income.* Traditionally, non-business income, such as rents, interest, and dividends on investments, is allocated to the site of commercial domicile.[42] But the Commission has adopted rules and practices calling for full apportionment

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Bros. v. *McColgan,* 315 U.S. 501 (1942). The Court declined to analyze both the apportionment formula involved and the potential for multiple taxation, and instead upheld the tax by requiring a multistate corporation attacking a state taxation system to prove by clear and cogent evidence that the tax results in multiple taxation.

The regulations and practices of the Commission are further discussed below.

[41] *See, e.g.,* S. 317, 92d Cong., 1st Sess. (1971); S. 1245, 93rd Cong., 1st Sess. (1973); S. 2080, 94th Cong., 1st Sess. (1975). The Annual Reports of the Multistate Tax Commission reveal that the Commission has vigorously opposed passage of any federal act that could resolve the difficult problems inherent in interstate taxation.

[42] This means that, under traditional interstate practice, passive, non-business income is subject to taxation only in the state of domicile. Such income, not earned by the business operations of the taxpayer, is not subject to taxes, through apportionment, in other states.

The Uniform Division for Income Tax Purposes Act ("UDITPA"), 7 Uniform Laws Annotated 365 (1970), a model statute adopted by many Compact and non-Compact states, specifically preserves the distinction between business and non-business income. For cases illustrating the operation of this traditional practice, *see, e.g., Avco Corp.* v. *Wasson,* 230 S.E.2d 614 (S.C. 1976); *American Bakeries Co.* v. *Johnson,* 259 N.C. 419, 131 S.E.2d 1 (1963); *Cargill, Inc.* v. *Spaeth,* 215 Minn. 540, 10 N.W.2d 728 (1943); *California Baking Corp.* v. *State Tax Commission,* 97 Utah 367, 93 P.2d 463 (1939). A tax policy research study published by the Treasury Department also indicates that allocation of non-business income is the long-standing method of taxation employed by the states. *See* ESSAYS IN INTERNATIONAL TAXATION (1976), p. 201.

of the non-business income of multistate and multinational taxpayers.[43] Moreover, the "full apportionment" rules of the Commission conflict in many cases with the laws of the Compact states. This is particularly true with respect to the Uniform Division of Income for Tax Purposes Act ("UDITPA"), which has been adopted in many of the compact states.[44]

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[43] The Executive Director of the Commission explained this in the Commission's Seventh Annual Report (1974): "Full apportionment involves applying the [taxing] formula to all income regardless of source or nature" (p. 47).

[44] See note 42 at p. 26 above and note 68 at p. 48 below.

Ferdinand Schoettle, a law professor at the University of Minnesota, discussed this in *The U. K. Treaty and the State Taxation of Corporate Income,* TAX NOTES, April 4, 1977, p. 3: "Since any amendment to the substantive provisions of the Multistate Tax Compact requires legislative action by all of the member states, the MTC has attempted to solve these substantive problems by promulgating regulations which bend, if not amend, the statute" (p. 7). Mr. Schoettle states that, for example, the Commission believes the distinction between business and non-business income should be eliminated, "but has chosen, instead of recommending amendment of the Compact, to restrict non-business income by regulation" (p. 7).

James H. Peters, state and local taxation editor of the JOURNAL OF TAXATION has also discussed the conflict between the "full apportionment" rules of the Commission and the laws of many of the Compact states:

> "I believe that the full apportionment concept in the regulations is an effort to change the Compact law to what Commission members consider to be a preferable approach to allocation and apportionment, rather than a sound interpretation of the Uniform Act. As such, it represents a legislative effort rather than an administrative effort. In my opinion, what we have seen here is a politicalization of the administrative function. I have the impression that representatives of member States tend to view the Commission much as a

(3) *Multistate Audits.* Finally, the Commission is the body authorized by the Compact to conduct multistate tax audits, and it has adopted rules and policies governing the conduct of such audits.

As is the case with most congressionally approved compacts which create multistate commissions, the Multistate Tax Compact deems its Commission to be "advisory." To develop and implement such "advice," however, the Commission is funded by the member states; it has hired auditors, attorneys, and other staff; and it has offices in New York, Chicago, Boulder, and Olympia. The "advice" of the Commission is frequently taken. For example, the Commission's regulations have been adopted by the tax administrators in eleven states, and the multistate audit provisions have been approved by all of the allied states. During appellants' limited discovery, it was determined that the combined reporting and full apportionment rules of the Commission have been applied in dozens of multistate and multinational audits, involving large sums of

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legislative body (at first somewhat like a Senate but recently, with the help of California, more like a House of Representatives) and the Compact much like a constitution; that is a document setting forth broad general principles under which the Commission has almost unlimited freedom to act. Not only is this an incorrect view of the Compact, I for one, believe that there is great danger in it. Administrators are part of the executive branch of State government, and with one notable exception, are not answerable to an electorate. They do not have responsibility for State fiscal policies and should not be engaged in legislative efforts. [Footnote omitted] In addition, treating the Compact as a broad delegation of legislative power raises a serious issue with respect to intergovernmental relationships and has a very definite bearing on the need for Congressional consent."

The comments of Mr. Peters are included in the Affidavit of Mr. McGanney, App. pp. 47, 58.

money and as many as eleven states at one time. The Annual Reports of the Commission also reveal that numerous such audits have been conducted. These audits have been conducted on behalf of states which have not formally approved the Commission's rules.[45]

The "advisory" status of the Commission is belied not only by its actual operation, but by the independence granted it by the member states. For example, the Commission may refuse to perform audits requested by a state or states which are members of the Compact, or the Commission may offer to conduct audits based on its own determination that the proceedings would be of interest to the member states. The Commission may also issue subpoenas to require the attendance of witnesses to give testimony and produce records and documents, and may use the compulsory

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[45] The adoption of rules or practices which conflict with the laws of the member states appears to be a recurrent custom of the Commission. In addition to the changes made in UDITPA and the conduct of audits in states which have not approved its practices, the Commission has altered the Compact itself without the approval of the legislatures of the member states, by changing the voting rights and powers of the member states. The Compact provides (Article VI) that each state shall have one vote on the Commission, and that a majority of members shall determine the actions of the Commission. The Commission, however, has adopted a rule that all member states shall vote both on a one-state, one-vote basis and also by vote weighted according to population. This method of voting was adopted by the Commission at the urging of California, effectively giving California veto power over the activities of the Commission. This independent action by the Commission, in violation of the terms of the Compact as adopted by the legislatures of the member states, is one of the reasons Indiana is taking steps to withdraw from the Compact. This alteration in the voting methods called for by the Compact is discussed in Appellants' Rule 9(g) Statement, App. pp. 43, 46, and the Affidavit of Thomas McGanney, App. pp. 47, 56.

process of any member state of the Compact to enforce compliance with its subpoenas. Failure to comply with such process is punishable as contempt of the issuing court. The Commission has issued its own subpoenas, and has also brought suit in its own name.[46] Such enforcement powers are extremely rare among the compacts approved by Congress, and are the source of frequent abuse and great potential harm.[47]

The Multistate Tax Compact is typical of a number of compacts created since 1920. It joins together almost half the states of the Nation to consider complex problems on a continuous and collective basis. It has produced an independent administrative commission, with more staff and greater powers than many of the commissions subjected to congressional review. Although typical of modern compacts, it is different in one major respect. Unlike almost every other modern compact the Compact and Commission have operated since 1967, adopting rules and practices, conducting multistate and multinational audits, and adding (and losing) members—all without the consent of Congress.

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[46] These subpoenas and cases are discussed in the Eighth Annual Report of the Commission (1975) at p. 4. The suits brought by the Commission include *Multistate Tax Commission, et al.* v. *International Harvester Company, et al.*, Case No. 58802, District Court for the Fourth Judicial District of Idaho; *Multistate Tax Commission, et al.* v. *International Business Machines, et al.*, Case No. 55395, Superior Court of the State of Washington, County of Thurston; *Multistate Tax Commission* v. *Sperry Rand Corp.*, Case No. 56154, District Court for the Fourth Judicial District of Idaho.

[47] Leach & Sugg, THE ADMINISTRATION OF INTERSTATE COMPACTS (1959) could find only two commissions as of 1959 with similar enforcement powers (p. 184). The misuse of these powers, and resulting harassment, are discussed below.

Thus, there was no federal participation in the negotiation of the Compact, nor are there federal representatives on the Multistate Tax Commission to monitor its rules and practices, particularly with respect to their effect, through taxation of foreign businesses, on international relations. These rules and practices have not been approved by Congress, as was required in the Bi-State Development Agency Compact. Annual reports are not submitted by the Commission to Congress, nor does a federal official recurrently review the impact of the Compact. The existence of the Compact has not been limited to a term of years, as was the Interstate Compact to Conserve Oil and Gas and the Atlantic States Marine Fisheries Compact, so that Congress could periodically determine the full significance of continuous multistate activity. The concentration of power within the Nation represented by the increase in membership, which has risen from seven in 1967 to twenty today, has not been subjected to congressional scrutiny. Finally, the Compact has not been placed before the many federal agencies which could reveal real or potential interferences with the non-member states or the Nation.

In fact, the Multistate Tax Compact and its Commission have simply placed themselves in operation on their own authority, constrained by none of the safeguards relied upon by Congress in reviewing numerous other modern compacts. The Compact has put itself into effect, and set about to transform interstate taxation. The court below accepted the validity of this self-proclaimed assumption of power despite the unambiguous language of the Constitution and the clear evidence of congressional concern in this field. The decision of the court below is contrary to the function

assigned to Congress by the Constitution and to the active role recognized by Congress in monitoring the development of the modern compact. The decision of the court below would essentially eliminate the role of the Compact Clause in protecting our federal system.

C. No Case Has Ever Upheld The Validity Of A Modern, Multistate Compact Lacking Congressional Consent.

Since almost all compacts have sought and obtained the consent of Congress, few cases questioning the validity of a compact lacking congressional consent have reached this Court. *See, e.g., Holmes* v. *Jenison,* 14 Peters 540 (1840); *Virginia* v. *Tennessee,* 148 U.S. 503 (1893); *Wharton* v. *Wise,* 153 U.S. 155 (1894); *North Carolina* v. *Tennessee,* 235 U.S. 1 (1914); *Virginia* v. *West Virginia,* 246 U.S. 565 (1918); *New Hampshire* v. *Maine,* 426 U.S. 363 (1976). These cases all involve one-time, one-place, bilateral boundary agreements, and have virtually no application to a wide-ranging multistate agreement such as that involved in this case. This Court has never upheld the validity of a modern compact, uniting many states and creating an independent administrative commission, to which Congress has not given its consent.

The most frequently cited of the cases which have considered compacts, and the one relied on below, is the opinion of Mr. Justice Field in *Virginia* v. *Tennessee.* In that case, the Court held that Congress had consented to the boundary settlement between Virginia and Tennessee that was the subject matter of the suit. Justice Field then went on to explain, in what was clearly a dictum, his understanding of the Compact Clause. He said (148 U.S. at 517-518):

> "The terms 'agreement' or 'compact' taken by themselves are sufficiently comprehensive to embrace all forms of stipulation, written or verbal, and relating to all kinds of subjects; to those to which the United States can have no possible objection or have any interest in interfering with, as well as to those which may tend to increase and build up the political influence of the contracting States, so as to encroach upon or impair the supremacy of the United States or interfere with their rightful management of particular subjects placed under their entire control."

This dictum was repeated in *North Carolina* v. *Tennessee, supra,* and *Virginia* v. *West Virginia, supra,* again in language not essential to the holdings. These cases, like *Virginia* v. *Tennessee,* both involved disputes arising from bilateral boundary settlements. At the close of the last Term, this Court cited Justice Field's explanation in yet another bilateral boundary case, after holding that the fundamental boundary dispute before the Court had been settled over two centuries earlier, and that no present legal adjudication was required. *New Hampshire* v. *Maine,* 426 U.S. 363 (1976).

Justice Field himself recognized the narrow scope of his statement in *Virginia* v. *Tennessee.* Writing one year later in *Wharton* v. *Wise, supra,* he stated that no compact was valid without the consent of Congress if it "might affect subjects placed under the control of Congress, such as commerce . . ." 153 U.S. at 171 (1894). In relying upon *Virginia* v. *Tennessee,* the District Court ignored this nearly contemporaneous explanation by Justice Field of the scope of the Compact Clause.

until it receives the consent of Congress. A compact uniting twenty states and intended to transform multistate and multinational taxation cannot escape affecting the non-party states and the national interest. For example, the Compact has already interfered in the conduct of foreign affairs. Before appellants' discovery was terminated by the action of the court below, it was learned that the Commission had conducted multinational audits, combining worldwide income and apportioning it to the member states of the Compact. The Treasury Department has noted that, unlike other methods of multinational taxation, this method subjects to state taxation the undistributed income of a foreign subsidiary, the income of a foreign parent, and the income of foreign brother-sister corporations, regardless of whether such income is subject to taxation under principles employed by the United States.[48]

"Combined reporting" and the "unitary business concept" may present a superficial appeal, but this will not survive scrutiny in a concrete case. Consider, for example, a parent holding company incorporated in Great Britain, with a subsidiary incorporated and doing business in Nigeria, and another subsidiary incorporated and doing business in California. Because of fire or storm, or business reverses, the subsidiary in California has a loss. The subsidiary in Nigeria, however, is highly profitable, its earnings in fact exceeding the loss in California. Under "combined reporting" or the "unitary business concept," the entity has net earnings, and a portion of this is apportioned to California, despite the fact that demonstrably no income was derived in California.

[48] *See* ESSAYS IN INTERNATIONAL TAXATION (1976), p. 258.

The illustration also serves to show the potentiality for administrative pressure and harassment. Through pressure on the subsidiary and its employees in California, the entity is required, through subpoena, to produce its books and records from Nigeria and Great Britain, despite the fact that California has no jurisdiction over these corporations. Moreover, the entity is required to demonstrate the accuracy of its reports of income and deductions in these countries, although the rules for determining income there, and methods of accounting, may be different from those demanded in California or by the Multistate Tax Commission.

It is a basic tax treaty position of the United States and other developed countries that an enterprise should be taxable only in a country in which it carries on a business through a permanent establishment. This principle is enunciated in the so-called "arms length" standard of Article 7 of the Model Income Tax Treaty of the Organization for Economic Cooperation and Development, and is included in all tax treaties of the United States.[49] The Multistate Tax Commission has criticized this "arms length" standard, however, and under its rules income of a foreign entity will be taken into account and apportioned to a taxing state in the United States even though such entity has no permanent establishment in the United States under federal principles.[50] Although these taxes are imposed by the

[49] This principle is also reflected in Articles 7 and 9 of the United States Model Income Tax Treaty, which the Department of the Treasury announced on May 18, 1976. *See* 41 Fed. Reg. 20427 (1976). The text of the Model Treaty appears in CCH Tax Treaties ¶ 9767.

[50] *See* the Ninth Annual Report of the Multistate Tax Commission (1976), p. 3.

The Commission has written that it "has taken the lead in stirring opposition to the objectionable provisions of the proposed treaties" and that "[t]he reason for Federal support of the restrictive provisions is difficult to comprehend."[55] Despite this opposition, the Task Force on Foreign Source Income of the House Committee on Ways and Means, after discussing the Multistate Tax Compact and the unitary business concept, recently recommended that the problems created by worldwide combination be resolved by Congress. Specifically, the Task Force recommended that "the States be precluded from taking into account, under the unitary method or any other method, the income of foreign affiliates of corporations doing business within the states until such time as that income is subject to Federal income tax."[56] Thus, the political process has already been invoked, and Congress or the Senate is involved in the international problems created by the Compact. The Compact should not be allowed, therefore, to continue to create international problems, or to influence the legislative resolutions of such problems, until Congress has consulted the State Department, Treasury Department, and other agencies to determine if the Compact is in the national interest, and has then acted affirmatively to give consent to the Compact.

The multinational tax regulations and practices of the Commission also interfere with the free movement

[55] The Ninth Annual Report of the Multistate Tax Commission (1976), p. 3.

[56] RECOMMENDATIONS OF THE TASK FORCE ON FOREIGN SOURCE INCOME, 95th Cong., 1st Sess. (1977), pp. 25-30. Several bills limiting or banning the methods of the Commission in the international area have also been considered by Congress. *See* the bills cited at note 41 above, p. 26.

of goods, capital, and ideas across national boundaries that has been an objective of United States foreign policy in recent decades. Contact with the member states of the Compact sufficient to satisfy the unitary business concept will result in the imposition of a tax, whether or not such contact justifies a tax under federal or treaty principles. Overlapping international claims to portions of the same tax base will lead to multiple taxation.[57] This double or multiple taxation can be avoided, of course, if the foreign government recognizes the legitimacy of the income reallocation imposed by the Commission, and allows the taxpayer correlatively to reduce its income or its local tax liability in the foreign country. It is doubtful, however, that a foreign government will so defer to the Multistate Tax Commission. The foreign government may question the apportionment methods unilaterally chosen by some states of the United States.

Finally, the methods of the Commission burden the development of an international economy by imposing costly administrative and compliance requirements. For example, a foreign parent would not ordinarily keep the books of its operations outside of the United States in terms of United States dollars, or in a manner which would conform to United States accounting principles. Moreover, the Commission "recommends" taxation of worldwide income without regard to re-

[57] For example, according to authorities in California, the worldwide application of the unitary business concept produces an additional $125 million in tax revenue in California alone that could not be obtained under traditional international practices. This estimated revenue effect is reported in ESSAYS IN INTERNATIONAL TAXATION (1976), p. 265 and the TASK FORCE REPORT ON FOREIGN SOURCE INCOME, 95th Cong., 1st Sess. (1977), p. 29.

strictions on currency repatriation and exchange revaluations. Such practices on the part of the Commission should not be allowed to continue until Congress has reviewed and consented to them.

B. The Multistate Tax Compact Has A Serious Impact On Interstate Commerce.

The Multistate Tax Compact also interferes with the national interest in promoting low cost, efficient interstate business. The objections of foreign governments in the multinational context to the multiple taxation fostered by the unitary business methods of the Commission are equally valid in the multistate context. Determining what constitutes a "unitary business," for example, is extremely difficult. No objective standards exist, and the very broad definition advanced by the Commission creates a serious potential for misallocation. The more attenuated the interdependence between the taxpayer and the income and assets of the rest of the group, the greater the risk of improperly allocating to a certain state or country income earned in another.

Multiple taxation may also result from the apportionment of non-business income utilized by the Commission in numerous audits. With many states still following the concept of allocating this income to the place of commercial domicile, and the Commission apportioning some of the same income to the western states, it is inevitable that many interstate businesses will be taxed on more than 100% of their non-business income.

Finally, the Nation's interest in efficient interstate business is harmed by the cost of complying with

the regulations and practices of the Commission. A taxpayer must file data concerning not only its own operation, but also data concerning sales, payrolls, and properties of legally separate corporations, including those organized and operated in foreign countries. The cost to the taxpayer of obtaining and processing the data of a large multistate or multinational organization in order to determine the taxable income of one small part of the organization may be excessive, particularly when different accounting systems are used in other states or abroad. The Commission's multistate audits are conducted in the first place under (1) the laws of the member states, *or* (2) the Commission's regulations and practices, whether or not adopted by the member states, *or* (3) the laws of the member states and the Commission's regulations and practices. It is not surprising that multistate businesses question the accuracy and fairness of such audits.[58]

The national interest in inexpensive, efficient interstate commerce has been acknowledged by congressional committees, which have recognized both the cost of letting the states control interstate taxation and the need for national uniformity.[59] Several states have

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[58] This brief has confined itself largely to discussion of the multistate and multinational system of *income* taxation being established by the Commission. The Commission, however, has also adopted practices and uniform forms designed to implement a regional system regarding *sales, use,* and *other taxes.* Thus, the multiple taxation and compliance costs discussed in connection with income taxes are also involved in many other state revenue raising procedures.

[59] *See, e.g.,* H. Rep. No. 1480, 88th Cong., 2d Sess., Vols. 1 and 2 (1964); H. Rep. No. 565, 89th Cong., 1st Sess., Vol 3 (1965); H. Rep. No. 952, 89th Cong., 1st Sess., Vol. 4 (1965); and HEARINGS BEFORE THE SUBCOMMITTEE ON FINANCE, 93d Cong., 1st

also called for federal legislation insuring a level of national uniformity and reducing the risk of multiple taxation;[60] and Congress has enacted further legislation affecting interstate taxation, in the field of banking.[61] The Multistate Tax Compact, however, was created, for the purpose of "killing off" (see p. 24, *supra*) any action that might produce a federal resolution to the difficult problems inherent in interstate taxation. The Compact and Commission should not be allowed to continue operations while simultaneously influencing the legislative process and disclaiming the need for congressional scrutiny.

Sess. (1973). *See also* the following bills: H.R. 11798, 89th Cong., 2d Sess. (1966); H.R. 16491, 89th Cong., 2d Sess. (1966); S. 317, 92d Cong., 1st Sess. (1971); H.R. 1538, 92d Cong., 1st Sess. (1971); H.R. 977, 93d Cong., 1st Sess. (1973); S. 1245, 93d Cong., 1st Sess. (1973); H.R. 9, 94th Cong., 1st Sess. (1975); S. 2080, 94th Cong., 1st Sess. (1975).

[60] *See, e.g.*, the statement of the Chairman of the New York State Department of Taxation and Finance, the statement of the Assistant Attorney General of Florida, and the statement of the Chairman of the Arizona State Tax Commission in HEARING BEFORE THE SUBCOMMITTEE ON STATE TAXATION OF INTERSTATE COMMERCE OF THE SENATE COMMITTEE ON FINANCE, 93d Cong., 1st Sess. (1973), at 133, 367, 393.

[61] *See* Act of August 16, 1973, P.L. 93-100, 87 Stat. 342. In Section 7 of this Act, Congress prohibited state taxation of interstate bank and other depository transactions "until such time as uniform and equitable methods are developed for determining jurisdiction to tax and for dividing the tax base among States," in order to further "the national goals of fostering an efficient banking system and the free flow of commerce among the States . . ." Congress directed that a study of proper allocation and apportionment, and of other multistate taxation questions related to financial institutions, be conducted.

III. THE EFFECT OF THE COMPACT ON THE NON-MEMBER STATES

A. The Multistate Tax Compact Interferes With The Sovereignty And Revenue Policies Of The Non-Member States.

The "unitary business" and "combined reporting" practices of the Compact and Commission may produce multiple taxation and excessive compliance costs. As recently as 1972, these methods were used in only two states, but this number has increased to 16 in the last four years.[62] If these practices continue to spread throughout the western United States, unfairness in interstate taxation can be avoided only through the efforts of some coordinating body. In the Commission's Seventh Annual Report, the Commission's Executive Director stated that the Commission was the only such "coordinating" body capable of solving the problems of interstate taxation; he rejected the possibility of a federal solution or of leaving the field to the states without the problem-causing methods espoused by the Commission.[63] The non-Compact states are thus being pressured to join the Compact, or perhaps to form their own compact, while the Commission continues both to establish methods in the western states which produce interstate taxation problems, and to oppose federal solutions to those problems. Interstate business is unfairly taxed in the interim while the non-member states exercise their sovereign right to resist the pressures of the Commission.

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[62] Ninth Annual Report of the Multistate Tax Commission, (1976), p. 3.

[63] Seventh Annual Report of the Multistate Tax Commission, (1974), p. 50. *See also* Corrigan, *Interstate Corporate Income Taxation—Recent Revolutions and a Modern Response*, 29 VAND. L. REV. 423 (1976), at 441-2.

The regulations and practices of the Commission calling for apportionment of non-business income also harm the non-member states. As has been discussed, such income is traditionally allocated to the site of commercial domicile. The Commission, however, apportions such revenue to the states of the Compact, either increasing the tax burden on interstate businesses through multiple taxation of the same income, or depriving eastern, commercial centers of revenue to which they have a legitimate, or at least a traditional claim. If such commercial centers do not generally tax the non-business income allocated to them under traditional systems because they desire to attract business, the Multistate Tax Commission deprives them of this tax incentive.[64]

The Commission's economic actions, taken on a regional basis, could force interstate businesses to migrate from the states adhering to traditional interstate practices.[65] This possibility and the other interferences with the sovereignty and revenue policies of the states have caused widespread opposition to the Compact. Since the Compact was formed, 27 states have resisted confederation, and three states have repudi-

[64] The Commission is particularly opposed to such tax incentives, calling the non-business income allocated under the traditional system to states which choose not to tax it "nowhere income." The Commission apportions such income so that it will be taxed in the Compact states. *See* Corrigan note 63 above, at pp. 429-436.

[65] The Executive Director of the Multistate Tax Commission has indicated that an important consideration in the development of the traditional methods of interstate taxation was "that the tax system not drive away corporate businesses to other parts of the nation." *See* the Seventh Annual Report of the Multistate Tax Commission (1974), at p. 46.

ated their membership. Illinois withdrew in 1975 and Florida in 1976, while Wyoming abandoned its membership on the day probable jurisdiction was noted in this case. Since then, the Indiana Senate has voted 47-3 to withdraw, based on the adoption of bylaws and regulations by the Commission inconsistent with Indiana law.[66] On February 17, 1977, Oklahoma severed its associate affiliation. New York had severed its associate affiliation in 1971, fearing a loss of sovereignty to the Multistate Tax Commission, an entity which can exercise continuous power uncontrolled by any one state.[67] Wisconsin also views the Commission as a threat to the sovereignty of the states. Arizona strongly opposes the Commission, considering it essentially a fourth level of government. Alabama agreed to join the Compact only if it sought and obtained congressional approval. These circumstances show that the Compact is more than an informal means for the exchange of information. It is, indeed, exactly the sort of "Agreement or Compact" which was guarded against in the Constitution in the absence of the "Consent of Congress."

[66] The Indiana bill is Indiana Senate Bill 414. Bills have also been introduced in Texas and Washington to withdraw those states from the Compact.

[67] *See* the discussion, and the letter of former Governor Rockefeller, at P-H STATE AND LOCAL TAXES, ALL STATES UNIT ¶ 6612. *See also* Sharpe, *State Taxation of Inter-State Business and the Multistate Tax Compact: The Search for a Delicate Uniformity*, 11 COL. J. LAW & SOC. PROBLEMS 231 (1975).

IV. THE COMMERCE CLAUSE AND FOURTEENTH AMENDMENT

A. The Multistate Tax Compact Burdens Interstate Commerce And Deprives Multistate Businesses Of Fourteenth Amendment Guarantees.

The operation of the Multistate Tax Commission, unchecked by any one state and acting through regulations, bylaws, and practices, has produced serious abuses which burden interstate commerce and violate the guarantees of the Fourteenth Amendment. Taxes may be imposed by state officials under "advisory" regulations not adopted by the taxing state, and perhaps even in conflict with the laws of the state.[68]

During the pendency of this case in the court below, the Commission "suggested" that a subpoena campaign be conducted by the member states against many of the taxpayers involved in this case.[69] The

[68] For example, the Uniform Division for Income Tax Purposes Act ("UDITPA"), 7 Uniform Laws Annotated 365 (1970), does not call for combined reporting and specifically recognizes the distinction between business and non-business income. As discussed at p. 27 above, however, the Commission has issued "advisory" regulations negating important sections of UDITPA instead of seeking amendments to the law in the Compact states where UDITPA has been enacted. The Commission has then subjected multistate business to "advisory" audits under its own regulations, and its tax "recommendations" were often accepted by the executive officials in charge of taxation in the various states, even in those states in which the legislature had adopted UDITPA and not the Commission's regulations. Commission representatives have indicated that the regulations are inconsistent with UDITPA and reflect the Commission's own view of the proper method of taxing interstate commerce, though it is not the system enacted by a majority of the states through UDITPA. *See* the explanation of the Commission's General Counsel in Dexter, *Taxation of Income From Intangibles of Multistate-Multinational Corporations*, 29 VAND. L. REV. 401 (1976).

[69] This is referred to in the Affidavit of Thomas McGanney. App. pp. 47, 51.

subpoenas were to direct the taxpayers to produce all interstate and international books and records before the personnel of the Commission. At least eight Compact states complied with the Commission's "suggestion," and subpoenas were served on several corporations demanding production of literally all the books and records of both parents and subsidiaries, in the various state capitals for the inspection of the Commission.

In addition to this harassment, the Commission's plan included the further "suggestion" that, if the taxpayers declined to appear before the Commission, arbitrary assessments were to be issued.[70] These arbitrary assessments were to be made even if the taxpayers offered to submit to audits by regular state personnel, or to extend the statutes of limitation pending the outcome of this case. The taxpayers were not to be allowed to present evidence on their tax liability, nor were the arbitrary assessments to be lifted unless the taxpayers recognized the Commission and submitted to multistate audits.

The State of Hawaii, however, after issuing subpoenas pursuant to the "suggestions" of the Commission, found that the alternatives to the subpoenas and Commission audits proposed by two of the taxpayers were reasonable. The Director of Taxation in Hawaii wrote to the Executive Director of the Commission:

> "In your October 26 memorandum regarding this matter, you proposed the issuance of arbitrary assessments; however, we are unable to arrive at a logical basis for an assessment in view of the

[70] The arbitrary assessments were referred to in the Affidavit of Thomas McGanney, App. pp. 51, 52.

> fact that income tax audits have not resulted in any significant assessments. In other words, most corporations appear to be in substantial compliance with our income tax law."[71]

The Commission immediately replied, stressing that "[i]t is important to recognize that the question at hand involves not only the amount of the liabilities of these companies, but whether they can defeat the entire audit program."[72] The Commission's letter to Hawaii also stated:

> "... the type of action that we have outlined, that of proceeding with the matter unless and until some court stops us, has resulted within the last few weeks in compliance by several corporations which had previously resisted. One of them is a corporation which has been seeking to join the lawsuit. Its capitulation is particularly significant. . . . We must keep the pressure on in order to insure success."[73]

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[71] This letter is referred to and quoted from in the Affidavit of Thomas McGanney, App. p. 51. The entire letter was attached to the Affidavit.

[72] The Commission's letter is referred to and quoted from in the Affidavit of Thomas McGanney, App. pp. 51-52. The entire letter was attached to the affidavit.

[73] Such practices were ordered stopped by the North Dakota Supreme Court. *Colgate-Palmolive Co.* v. *Dorgan*, 225 N.W. 2d 278 (N.D. 1974). Proceedings in connection with a subpoena issued pursuant to the Commission's campaign were also stopped by a federal district court in North Dakota, with Judge Van Sickle noting that the Commission's campaign was no more than an attempt to "end run" around this case, "and thus activate the functioning of the Multistate Tax Commission" during the pendency of this case. *See Dorgan* v. *International Business Machines Corp. and International Harvester Co.*, North Dakota State Tax Reports, CCH # 200-149 (October 24, 1974).

Finally, the Commission's letter suggested the arbitrary figures that should be used by Hawaii in connection with the plan being implemented by the Commission in the Compact states:

> "Accordingly, it is most important that you follow through and issue an assessment in accordance with the procedures which we have established for all of our member states previously. Our advisors have suggested that an assessment in the amount of $7,500.00 per year against Bristol-Myers and $12,000.00 per year against Colgate-Palmolive would be appropriate. Now that Sperry & Hutchinson has also ignored your subpoena, an assessment against them in the amount of $7,-500.00 per year has been suggested."[74]

This course of conduct is evidence that the Commission and Compact states may impose burdens on commerce and ignore the guarantees of the Fourteenth Amendment on a wholesale and concerted basis. Accordingly, the Compact should not be declared valid until Congress has considered the possibility that such conduct will recur and has evaluated the propriety and impact of such conduct, and has then acted affirmatively to approve the Compact.

CONCLUSION

The Multistate Tax Compact is called a compact. It looks like a compact; it acts like a compact; and the consent of Congress was sought for it as a compact. Indeed it is a compact, of the very sort that Article I, Section 10, was intended to cover. Accordingly, the judgment of the court below should be reversed, and

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[74] This letter was attached to the Affidavit of Thomas McGanney, App. p. 47.

the Multistate Tax Compact should be declared invalid unless and until the consent of Congress is obtained.

Respectfully submitted,

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SUPPLEMENT A

INTERSTATE COMPACTS TO WHICH CONGRESS HAS GIVEN ITS CONSENT, 1789-1976

This List Was Compiled From Statutes at Large and Is Presented in Chronological Order. The List Includes Congressional Consent to Amendments, New Members, and Renewals.

COMPACT	CONGRESSIONAL CONSENT
Virginia and Kentucky Compact of 1789	1 Stat. 189 (1791)
Kentucky and Tennessee Boundary Compact of 1820	3 Stat. 609 (1820)
Chesapeake & Ohio Canal Company Compact	4 Stat. 101 (1825) 4 Stat. 292 (1820) 4 Stat. 602 (1832)
New York and New Jersey Compact of 1833	4 Stat. 708 (1834)
Missouri and Arkansas Boundary Compact of 1846	9 Stat. 211 (1948)
Massachusetts and New York Boundary Compact of 1853	10 Stat. 602 (1955)
Massachusetts and Rhode Island Boundary Settlement of 1859	11 Stat. 382 (1858)
Virginia and West Virginia Debt Agreement	12 Stat. 633 (1862)
Virginia and West Virginia Boundary Agreement of 1866	14 Stat. 350 (1866)
Virginia and Maryland Boundary Agreement of 1877	20 Stat. 481 (1879)

Compact	Congressional Consent
New York and Vermont Boundary Agreement of 1880	21 Stat. 72 (1880)
New York and Connecticut Boundary Agreement of 1879	21 Stat. 351 (1881)
Connecticut and Rhode Island Boundary Agreement of 1887	25 Stat. 553 (1888)
New York and Pennsylvania Boundary Agreement of 1886	26 Stat. 329 (1890)
South Dakota and Nebraska Boundary Agreement of 1897	30 Stat. 214 (1897)
Virginia and Tennessee Boundary Agreement of 1901	31 Stat. 1465 (1901)
South Dakota and Nebraska Boundary Agreement of 1905	33 Stat. 820 (1905)
New Jersey and Delaware Agreement of 1905	34 Stat. 858 (1907)
Mississippi and Arkansas Agreement of 1909	35 Stat. 1161 (1909)
Massachusetts and Connecticut Boundary Agreement of 1914	38 Stat. 727 (1914)
Minnesota, North Dakota, and South Dakota Agreements of 1917	40 Stat. 250 (1917) 40 Stat. 266 (1917)
Oregon and Washington Ageement of 1915	40 Stat. 515 (1918)

Compact	Congressional Consent
Wisconsin and Minnesota Boundary Agreement of 1917	40 Stat. 959 (1918)
New York and New Jersey Tunnel Agreement of 1919	41 Stat. 158 (1919)
South Dakota and Minnesota Agreement of 1917	41 Stat. 1447 (1921)
Pennsylvania and Delaware Boundary Agreement of 1921	42 Stat. 104 (1921)
Colorado River Compact of 1921	42 Stat. 171 (1921)
Port of New York Authority Agreement of 1921	42 Stat. 174 (1921) 42 Stat. 822 (1922)
Kansas City Waterworks Agreement of 1922	42 Stat. 1058 (1922)
New York and Connecticut Boundary Agreement	43 Stat. 731 (1925)
The La Plata River Compact	43 Stat. 796 (1925)
South Platte River Compact	44 Stat. 195 (1926)
Lake Champlain Bridge Compact	45 Stat. 120 (1928)
Menominee River Bridge Compact	45 Stat. 300 (1928)
Delaware River Port Authority Compact	47 Stat. 308 (1932)
Buffalo and Fort Erie Bridge Authority Compact	48 Stat. 662 (1934)
New England Interstate Correction Compact (Advance consent under Federal Crime Control Act)	48 Stat. 909 (1934)

Compact	Congressional Consent
Lake Champlain Bridge Commission, amendatory agreement between New York and Vermont for creation of, ratified	49 Stat. 736, 1472 (1936)
Interstate Sanitation District, agreement between New York, New Jersey, and Connecticut	49 Stat. 932 (1935)
Interstate Compact to Conserve Oil and Gas	49 Stat. 939 (1935)
Delaware River Joint Toll Bridge Commission, Pennsylvania and New Jersey	49 Stat. 1058 (1935)
Flood-control, etc.—	
Consent granted to certain states	49 Stat. 1490 (1936)
Consent of Congress granted; ratification of	49 Stat. 1571 (1936)
Park, parkway, and recreational-area programs, consent of Congress granted to, with reference to planning, etc.	49 Stat. 1895 (1936)
Maine-New Hampshire Interstate Bridge Authority	50 Stat. 538 (1937)
Yellowstone River, division of waters, Mont. and Wyo.	50 Stat. 551 (1937)
Oil and gas conservation, continuance of	50 Stat. 617 (1937)
Minimum wage, etc., Mass., N. H., and R. I.	50 Stat. 633 (1937)
Palisades Interstate Park Commission, creation of, New York and New Jersey	50 Stat. 719 (1937)

Compact	Congressional Consent
Pymatuning Lake, relating to, Ohio and Pennsylvania	50 Stat. 865 (1937)
Potomac Valley conservancy district, negotiation for creation of	50 Stat. 884 (1937)
Red River of the North, compact between Minnesota, North and South Dakota regarding waters of	52 Stat. 150 (1938)
Great Lakes, agreements between bordering States with respect to fishing in waters of	52 Stat. 200 (1938)
Snake River, division of waters, Idaho and Wyoming	52 Stat. 379 (1938)
New Jersey and Pennsylvania, tunnel construction, etc., under Delaware River	52 Stat. 1163 (1938)
Rio Grande, signed Mar. 18, 1938	53 Stat. 785 (1939)
Oil and gas conservation, Oklahoma, Texas, California, and New Mexico, extension	53 Stat. 1071 (1939)
Iowa and Missouri, establishment of boundary	53 Stat. 1345 (1939)
Little Missouri River, division of waters of	54 Stat. 382 (1940)
Yellowstone River, division of water supply, authorized	54 Stat. 399 (1940)
Potomac Valley Conservancy District	54 Stat. 748 (1940)
Ohio River Valley Water Sanitation Compact	54 Stat. 752 (1940)

Compact	Congressional Consent
Oil and gas conservation, extension	55 Stat. 666 (1941)
Atlantic Seaboard, fisheries	56 Stat. 267 (1942)
Republican River, division of waters	56 Stat. 736 (1942)
Appropriation for salary and expenses of U.S. representative, authorized	56 Stat. 736 (1942)
Republican River, division of waters	57 Stat. 86 (1943)
Cumberland Gap National Historical Park, entrance into compact for acquisition of property	57 Stat. 86 (1943)
Indiana-Kentucky boundary line	57 Stat. 248 (1943)
Oil and gas conservation	57 Stat. 383 (1943)
Iowa-Nebraska boundary line	57 Stat. 494 (1943)
Belle Fourche River Basin, use of waters	58 Stat. 94 (1944)
Time extension for negotiation, Yellowstone River, division of waters	58 Stat. 117 (1944)
New York-Rhode Island boundary line	58 Stat. 672 (1944)
Arkansas River, division of waters	59 Stat. 53 (1945)
Appropriations for salary and expenses of United States representative, authorized	59 Stat. 53 (1945)
Appropriation for	59 Stat. 649 (1945)

Compact	Congressional Consent
Lake Champlain Bridge Commission, amendatory agreement	59 Stat. 227 (1945)
Pymatuning Lake, amendment of existing compact	59 Stat. 502 (1945)
District of Columbia-Virginia Boundary Compact	59 Stat. 552 (1945)
Costilla Creek Compact	60 Stat. 246 (1946)
Deposit of original in archives of Department of State	60 Stat. 254 (1946)
Rights Reserved	60 Stat. 254 (1946)
Utah, Idaho, and Wyoming, States of, division of waters of Bear River and tributaries	60 Stat. 658 (1946)
Nebraska-Iowa Bridge Corporation and States of Iowa and Nebraska, bridge across Missouri River, agreement respecting	60 Stat. 661 (1946)
Illinois-Missouri Bridge Compact	60 Stat. 847 (1946)
Oil and gas conservation compact, extension and renewal	61 Stat. 316 (1947)
Pacific Marine Fisheries Compact	61 Stat. 429 (1947)
New England Interstate Water Pollution Control Compact	61 Stat. 682 (1947)
Pennsylvania and New Jersey, compact concerning Delaware River Joint Toll Bridge Commission	61 Stat. 752 (1947)

Compact	Congressional Consent
Idaho and Wyoming, division of waters of Snake River	62 Stat. 294 (1948)
Boundary compact, Michigan, Minnesota, and Wisconsin	62 Stat. 1152 (1948)
Water pollution, negotiation of compacts for control of	62 Stat. 1156 (1948)
Upper Colorado River Basin Compact	63 Stat. 31 (1949)
Gulf States Marine Fisheries Compact	63 Stat. 70 (1949)
Crime prevention, cooperation in	63 Stat. 107 (1949)
Arkansas River Compact	63 Stat. 145 (1949)
Funds for payment of U. S. representative in negotiation and participation; retired Army officer as U. S. representative.	63 Stat. 786 (1949)
Yellowstone River, negotiation of agreement for division of waters	63 Stat. 152 (1949)
Pecos River Compact	63 Stat. 159 (1949)
Northeastern Interstate Forest Fire Protection Compact	63 Stat. 271 (1949)
Tennessee-Missouri Bridge Commission	63 Stat. 930 (1949)
Snake River Compact	64 Stat. 29 (1950)
Canadian River, negotiation for apportionment of waters	64 Stat. 93 (1950)
Kansas-Missouri Boundary Compact	64 Stat. 397 (1950)

Compact	Congressional Consent
Atlantic States Marine Fisheries Compact, amendment and repeal of time limitation	64 Stat. 467 (1950)
Missouri and Illinois Bi-State Development Agency and Bi-State Metropolitan District, compact creating	64 Stat. 568 (1950)
Civil defense compacts	64 Stat. 1249 (1951)
Oil and gas conservation compact, extension and renewal	65 Stat. 199 (1951)
Pennsylvania and New Jersey, compact concerning bridge across Delaware River	65 Stat. 650 (1951)
Yellowstone River Compact	65 Stat. 663 (1951)
Sabine River, negotiation for apportionment of waters	65 Stat. 736 (1951)
Delaware River Joint Toll Bridge Commission	66 Stat. 28 (1952)
Northeastern Interstate Forest Fire Protection Compact, Canadian participation	66 Stat. 71 (1952)
Mutual military aid in an emergency by New York, New Jersey, and Pennsylvania	66 Stat. 315 (1952)
Columbia River and tributaries, negotiation for apportionment of waters	66 Stat. 737 (1952)
Canadian River Compact	66 Stat. 737 (1952)
Delaware River Port Authority (Delaware River Joint Commission)	66 Stat. 738, 747 (1952)

Compact	Congressional Consent
Connecticut River Flood Control Compact	67 Stat. 45 (1953)
Water compacts between Nebraska, South Dakota, and Wyoming	67 Stat. 365 (1953)
Western States Compact on higher education	67 Stat. 490 (1953)
Waterfront Commission Compact, New Jersey and New York	67 Stat. 541 (1953)
The Breaks area, development as park by Kentucky and Virginia	67 Stat. 584 (1953)
Alabama and Florida, boundary agreement	68 Stat. 77 (1954)
Columbia River Compact, amendment, inclusion of Nevada and Utah in apportionment of waters	68 Stat. 468 (1954)
Southeastern Interstate Forest Fire Protection Compact	68 Stat. 563 (1954)
Breaks Interstate Park Compact	68 Stat. 571 (1954)
South River Compact	68 Stat. 690 (1954)
South Central Interstate Forest Fire Protection Compact	68 Stat. 783 (1954)
New England Higher Education Compact	68 Stat. 982 (1954)

Compact	Congressional Consent
Arkansas and Oklahoma, development and apportionment of Arkansas River waters	69 Stat. 184 (1955)
Oil and gas conservation, extension	69 Stat. 385 (1955)
Oregon and California, negotiations on apportionment of waters of Klamath River	69 Stat. 613 (1955)
Kansas and Oklahoma, apportionment of waters of Arkansas River	69 Stat. 631 (1955)
Arkansas, Louisiana, Oklahoma, and Texas, apportionment of waters of Red River	69 Stat. 654 (1955)
California and Nevada, distribution of waters of Truckee, Carson, and Walker Rivers Lake Tahoe, and tributaries	69 Stat. 675 (1955)
Mutual military aid in an emergency, between New York or New Jersey and any contiguous States	70 Stat. 247 (1956)
Water pollution, negotiation for prevention and control	70 Stat. 498 (1956)
Middle Atlantic Interstate Forest Fire Protection Compact	70 Stat. 636 (1956)
Mississippi and Arkansas, bistate commission established to study possibility of construction of bridge	70 Stat. 696 (1956)

Compact	Congressional Consent
New York, New Jersey, and Connecticut, smoke and air pollution studies by Interstate Sanitation Commission	70 Stat. 966 (1956)
Illinois-Wisconsin interstate school compact	70 Stat. 973 (1956)
Alaska, District of Columbia, Hawaii, Puerto Rico, and Virgin Islands, in cooperation for prevention of crime	70 Stat. 1020 (1956)
Arizona-California boundary compact	70 Stat. 1124 (1956)
Merrimack River Flood Control Compact	71 Stat. 18 (1957)
Montana, North Dakota, South Dakota and Wyoming, Little Missouri River negotiations	71 Stat. 466 (1957)
Klamath River Basin Compact	71 Stat. 497 (1957)
Bear River Compact	72 Stat. 38 (1958)
Nebraska, Wyoming, and South Dakota, time extension for negotiation	72 Stat. 147 (1958)
Connecticut-Massachusetts flood control	72 Stat. 364 (1958)
Washington and Oregon, boundary	72 Stat. 455 (1958)
Tennessee-Tombigee Waterway Development Compact	72 Stat. 609 (1958)
Highway Safety	72 Stat. 635 (1958)
Tennessee River Basin Water Pollution Control Compact	72 Stat. 823 (1958)

Compact	Congressional Consent
Minnesota and Province of Manitoba, Canada	72 Stat. 1701 (1958)
Oil and gas conservation, extension	73 Stat. 290 (1959)
Airport facilities, development or operation	73 Stat. 333 (1959)
New York-New Jersey Transportation Agency Compact	73 Stat. 575 (1959)
Missouri-Illinois Bi-State Development Agency, additional powers	73 Stat. 582 (1959)
Virginia-West Virginia, boundary	73 Stat. 599 (1959)
Wabash Valley Compact, development and planning	73 Stat. 694 (1959)
Kansas-Nebraska, apportionment of waters of the Big Blue River	74 Stat. 160 (1960)
Maryland-Virginia-District of Columbia; National Capital transportation problems	74 Stat. 544 (1960)
Washington Metropolitan Area Transit Regulation Compact	74 Stat. 1031 (1960)
Arizona-Nevada, boundary revision	75 Stat. 93 (1961)
* Urban planning and development	75 Stat. 170 (1961)

* In this legislation Congress consented in advance to compacts designed to promote urban planning and housing policies; compacts have been formed under this legislation. *See, e.g.*, Delaware Valley Urban Area Compact.

Compact	Congressional Consent
Pennsylvania-Ohio, activity on Pymatuning Lake	75 Stat. 242 (1961)
North Dakota-Minnesota, boundary	75 Stat. 399 (1961)
Nebraska, Wyoming, and South Dakota, time extension for negotiations	75 Stat. 412 (1961)
Delaware River Basin Compact	75 Stat. 688 (1961)
Guam, cooperation in prevention of crime, authorization	76 Stat. 9 (1962)
Texas-Louisiana, waters of the Sabine River, membership	76 Stat. 34 (1962)
Montana-North Dakota-South Dakota-Wyoming, waters of Little Missouri River, time extension for negotiations	76 Stat. 71 (1962)
Southern Interstate Nuclear Compact	76 Stat. 249 (1962)
Delaware-New Jersey Compact	76 Stat. 560 (1962)
Pacific Marine Fisheries Compact, amendment; additional States, participation	76 Stat. 763 (1962)
Washington Metropolitan Area Transit Regulation Compact, amendments, geographical jurisdiction and transportation covered, extension	76 Stat. 764 (1962)
Potomac River Compact of 1958	76 Stat. 797 (1962)
Water pollution disputes, district court jurisdiction	76 Stat. 957 (1962)

Compact	Congressional Consent
Oil and gas, conservation, extension and renewal	77 Stat. 145 (1963)
Hanover, N.H.-Norwich, Vt., establishment of an interstate school district	77 Stat. 332 (1963)
Costilla Creek Compact, Colo.-N. Mex., amendment, allocation of water flow	77 Stat. 350 (1963)
Clean Air Act, cooperative activities under	77 Stat. 393 (1963)
Commercial fisheries research and development	78 Stat. 197 (1964)
New Jersey-Pennsylvania, Delaware River, supplemental agreement	78 Stat. 215 (1964)
Ohio-Pennsylvania amendment	78 Stat. 313 (1964)
Highway safety, District of Columbia participation	78 Stat. 564 (1964)
Breaks Interstate Park Compact, Va.-Ky., amendment, eminent domain provision	78 Stat. 957 (1964)
Motor fuels taxation and taxation proration and reciprocity on interstate buses	79 Stat. 58 (1965)
State Technical Services Act of 1965 Appropriation for effecting provisions	79 Stat. 682 (1965) 79 Stat. 1150 (1965)
Bus taxation proration and reciprocity agreement, Connecticut, Rhode Island, and Vermont, parties to	79 Stat. 1157 (1965)

Compact	Congressional Consent
Arizona and California, boundary between the States	80 Stat. 340 (1966)
Kansas City Area Transportation District and Kansas City Area Transportation Authority	80 Stat. 826 (1966)
Hudson River Basin Compact, negotiation, authorization	80 Stat. 847 (1966)
Bus taxation proration and reciprocity compact, Massachusetts a party	80 Stat. 1156 (1966)
Washington Metropolitan Area Transit Regulation Compact, amendments; transfer of functions, etc.	80 Stat. 1324 (1966)
Missouri-Illinois-Jefferson-Monroe Bridge Commission, creation	80 Stat. 1407 (1966)
Arkansas River Basin Compact, Kansas-Oklahoma	80 Stat. 1409 (1966)
Wheeling Creek Watershed Protection and Flood Prevention District Compact	81 Stat. 553 (1967)
Oil and gas conservation, extension and renewal	81 Stat. 560 (1967)
Bus Taxation proration and reciprocity agreement, Ohio a party	81 Stat. 583 (1967)
Kansas City Area Transportation Authority, additional powers	82 Stat. 338 (1968)

Compact	Congressional Consent
Great Lakes Basin Compact	82 Stat. 414 (1968)
Animas-La Plata Project Compact	82 Stat. 898 (1968)
New Hampshire-Vermont Interstate School Compact	83 Stat. 14 (1969)
Upper Niobrara River Compact	83 Stat. 86 (1969)
Tahoe Regional Planning Compact	83 Stat. 360 (1969)
Oil and Gas Conservation Compact, Interstate, extension	83 Stat. 436 (1969)
Connecticut-New York Railroad Passenger Transportation Compact	83 Stat. 441 (1969)
Pacific Marine Fisheries Compact, amendments	84 Stat. 415 (1970)
Fall of Ohio Interstate Park Compact	84 Stat. 832 (1970)
Potomac Valley Conservancy District, amendments	84 Stat. 856 (1970)
Western Interstate Nuclear Compact	84 Stat. 979 (1970)
Susquehanna River Basin Compact	84 Stat. 1509 (1970)
Kansas-Nebraska Big Blue River Compact	86 Stat. 193 (1972)
Oil and Gas Conservation Compact extension and renewal	86 Stat. 383 (1972)

Compact	Congressional Consent
Washington Metropolitan Transit Authority Compact, amendments	86 Stat. 466, 1000 (1972)
Arkansas-River Basin Compact	87 Stat. 569 (1973)
Cumbres and Toltec Scenic Railroad Compact	88 Stat. 1421 (1974)
District of Columbia Interstate Agreement on Educational Personnel	88 Stat. 1612 (1974)
Washington Metropolitan Area Transit Regulation Compact	90 Stat. 672 (1976)
New Hampshire-Vermont Interstate Sewage Disposal Compact	90 Stat. 1221 (1976)
Oil and Gas Conservation Compact, Interstate, renewal	90 Stat. 2365 (1976)

SUPPLEMENT B

INTERSTATE COMPACTS 1783-1966

This list was compiled by the Council of State Governments and is copied from the Council's publication, *Interstate Compacts 1783-1966.* It is presented in alphabetical order. Although some of the material in this list may duplicate that compiled from the *Statutes at Large,* additional information, including the member states and a description of the compacts, is included.

AGREEMENT ON DETAINERS (see DETAINERS, AGREEMENT ON)

ALABAMA-FLORIDA BOUNDARY COMPACT

Alabama: 1953 Florida: 1953 Congressional consent: 1954

ARIZONA-CALIFORNIA BOUNDARY COMPACT

Arizona: 1963 California: 1963 Congressional consent: 1966

ARIZONA-NEVADA BOUNDARY COMPACT

Arizona: 1960 Nevada: 1960 Congressional consent: 1961

ARKANSAS-MISSISSIPPI BOUNDARY COMPACT

Fixes boundary line and settles criminal jurisdiction on the Mississippi River.

Arkansas: 1909 Mississippi: 1910 Congressional consent: 1909

ARKANSAS-MISSOURI BOUNDARY COMPACT

Arkansas: 1846 Missouri: 1847 Congressional consent: 1848

ARKANSAS RIVER COMPACT OF 1949

Creates the Arkansas River Compact Administration to apportion the waters of the Arkansas River.

Colorado: 1949 Kansas: 1949 Congressional consent: 1949

ARKANSAS RIVER COMPACT OF 1965

Creates the Kansas-Oklahoma Arkansas River Commission to apportion the waters of the Arkansas River; promotes an active pollution abatement program for the waters of the Arkansas River basin.

Kansas: 1966 Oklahoma: 1965 Congressional consent: 1966

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By separate enactments in 1955, Congress authorized negotiations for two Arkansas River compacts: between Kansas and Oklahoma; between Arkansas and Oklahoma. The latter two states have not yet adopted such a compact.

ARKANSAS-TENNESSEE BOUNDARY COMPACT

Fixes boundary line and settles criminal jurisdiction on the Mississippi River.

Arkansas: 1909 Tennessee: 1915 Congressional consent: 1909

ATLANTIC STATES MARINE FISHERIES COMPACT

Establishes a commission to promote better utilization of fisheries along the Atlantic seaboard.

Connecticut: 1945
Delaware: 1941
Florida: 1945
Georgia: 1943
Maine: 1942
Maryland: 1941
Massachusetts: 1941
New Hampshire: 1941
New Jersey: 1941
New York: 1941
North Carolina: 1949
Pennsylvania: 1943
Rhode Island: 1941
South Carolina: 1942
Virginia: 1942
Congressional consent: 1942

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In 1950 Congress consented to an amendment permitting two or more states to delegate to a special section of the commission, composed of their own commissioners, such powers as they may desire to confer for the management of a fishery shared in common. Thus far, Massachusetts (1948); Maine, New Hampshire, North Carolina, Pennsylvania and Rhode Island (1949); New Jersey (1950) and Connecticut (1951) have adopted the amendment.

BEAR RIVER COMPACT

Creates a commission to apportion the waters of the Bear River.

Idaho: 1955 Wyoming: 1957 Congressional consent: 1958
Utah: 1955

Belle Fourche River Compact

Apportions the waters of the Belle Fourche River.

South Dakota: 1943 Wyoming: 1943 Congressional consent: 1944

Bi-State Development Agency Compact

Establishes the Bi-State Development Agency for the St. Louis metropolitan area.

Illinois: 1949 Missouri: 1949 Congressional consent: 1950

In 1959 both states and Congress approved an amendment granting additional powers to the bi-state agency.

Breaks Interstate Park Compact

Establishes the Breaks Interstate Park Commission and park.

Kentucky: 1954 Virginia: 1954 Congressional consent: 1954

In 1964 both states and Congress approved an amendment authorizing the commission to exercise right of eminent domain to acquire property located within each state.

Buffalo and Fort Erie Bridge Authority Compact

Creates the Buffalo and Fort Erie Public Bridge Authority to acquire all assets and property of the Buffalo and Fort Erie Public Bridge Company.

New York: 1933 Canada: 1934 Congressional consent: 1934

Earlier and subsequent agreements between New York and the Government of Canada are too complex for enumeration here.

Bus Taxation Proration and Reciprocity Agreement

Prorates registration and fixed fees among party states for bus companies engaged in both inter- and intrastate operations.

Connecticut: 1965
Maine: 1963
Maryland: 1964
Massachusetts: 1965
New Hampshire: 1963
New York: 1964
Pennsylvania: 1963
Rhode Island: 1965
Vermont: 1965
District of Columbia: 1965
Congressional consent: 1965[1]

All states, U. S. territories and possessions, Canadian provinces and states of Mexico are eligible.

Canada and New York International Bridge Compact

Establishes a consolidated international company to construct a railroad bridge across the Niagara River.

New York: 1869 Canada: 1869 Congressional consent: 1870

Canadian River Compact

Establishes a commission to apportion the waters of the Canadian River.

New Mexico: 1951
Oklahoma: 1951
Texas: 1951
Congressional consent: 1952

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[1] For all states, except Massachusetts and the District of Columbia, Congressional consent was given in 1965. Congress approved Massachusetts' entry into the compact in 1966. Individual Congressional consent action is required for each state adopting this compact.

Civil Defense and Disaster Compact, Interstate

Establishes the required legal framework for states to provide mutual military aid and disaster assistance.

Alabama: 1951
Alaska: 1951
Arizona: 1951
Arkansas: 1953
California: 1950
Colorado: 1950
Connecticut: 1951
Delaware: 1951
Florida: 1951
Georgia: 1951
Hawaii: 1951
Idaho: 1951
Illinois: 1951
Indiana: 1949
Iowa: 1959
Kansas: 1951
Kentucky: 1952
Maine: 1949
Maryland: 1949
Massachusetts: 1950
Michigan: 1951
Minnesota: 1951
Mississippi: 1952
Missouri: 1951
Montana: 1951
Nebraska: 1951
Nevada: 1953
New Hampshire: 1949
New Jersey: 1951
New Mexico: 1951
New York: 1951
North Carolina: 1951
North Dakota: 1951
Ohio: 1949
Oklahoma: 1951
Oregon: 1949
Pennsylvania: 1951
Rhode Island: 1950
South Carolina: 1950
South Dakota: 1951
Tennessee: 1951
Texas: 1951
Utah: 1951
Vermont: 1951
Virginia: 1952
Washington: 1951
West Virginia: 1951
Wisconsin: 1951
Wyoming: 1951
District of Columbia: 1950
Guam: 1952
Puerto Rico: 1951
Virgin Islands: 1950
Congressional consent: 1950[2]

The model civil defense compact was developed in the early fifties, to which all states are eligible. The jurisdictions listed have adopted either this compact or variants thereof, but the details of particular adoptions are too complex for enumeration here. The state attorney general has declared Kansas' participation invalid.

[2] This compact was consented to in advance by Congress (see Federal Civil Defense Act of 1950, Title II, § 201(g)).

Colorado River Compact

Apportions the waters of the upper and lower basins of the Colorado River.

Arizona: 1944
California: 1929
Colorado: 1925
Nevada: 1925
New Mexico: 1925
Utah: 1929
Wyoming: 1925
Congressional consent: 1928

In 1921 Congress authorized these seven states to enter into a compact no later than 1923. All states, except Arizona, adopted a compact in 1923. The six compacting states adopted an amendment in 1925 to waive the requirement of approval by all seven states. Congress accepted the revision in the 1928 Boulder Canyon Project Act which, however, required California's approval. California adopted the amended compact in 1929.

Columbia River Jurisdiction Compact

Oregon: 1915
Washington: 1915
Congressional consent: 1918

This compact is also known as the Oregon-Washington Fisheries Compact.

Compact for Education (see Education, Compact for)

Compact on Taxation of Motor Fuels Consumed by Interstate Buses (see Taxation of Motor Fuels Consumed by Interstate Buses, Compact on)

Connecticut-Massachusetts Boundary Compact

Connecticut: 1913
Massachusetts: 1908
Congressional consent: 1914

CONNECTICUT-NEW YORK BOUNDARY COMPACT OF 1880

Connecticut: 1880 New York: 1880 Congressional consent: 1881

CONNECTICUT-NEW YORK BOUNDARY COMPACT OF 1912

Redefines the boundary line set by the 1880 compact.

Connecticut: 1913 New York: 1912 Congressional consent: 1925

CONNECTICUT-RHODE ISLAND BOUNDARY COMPACT

Connecticut: 1887 Rhode Island: 1887 Congressional consent: 1888

CONNECTICUT RIVER VALLEY FLOOD CONTROL COMPACT

Creates the Connecticut River Valley Flood Control Commission and provides for the financial reimbursement by downstream states for economic loss to political subdivisions in which flood control reservoirs are located.

Connecticut: 1951 New Hampshire: 1951 Congressional consent: 1953
Massachusetts: 1951 Vermont: 1951

An earlier compact was adopted by the states in 1937. However Congress withheld approval as the compact was believed to have exceeded the purpose and intent of the 1936 Flood Control Act.

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COSTILLA CREEK COMPACT

Establishes a commission to apportion the waters of the Costilla Creek.

Colorado: 1945 New Mexico: 1945 Congressional consent: 1946

In 1963 both states and Congress approved an amendment to perfect further efficient utilization of the waters.

CUMBERLAND GAP NATIONAL PARK COMPACT

Makes possible the setting up of the Cumberland Gap National Park.

Kentucky: 1943 Virginia: 1943 Congressional consent: 1943
Tennessee: 1943

DELAWARE-PENNSYLVANIA BOUNDARY COMPACT

Delaware: 1921 Pennsylvania: 1897 Congressional consent: 1921

DELAWARE RIVER AND BAY AUTHORITY COMPACT

Establishes an authority to provide for the orderly development of transportation, terminal and other commercial facilities in the bi-state area bordering the river and bay.

Delaware: 1961 New Jersey: 1961 Congressional consent: 1962

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DELAWARE RIVER BASIN COMPACT

Establishes the Delaware River Basin Commission as a regional multi-purpose water resources agency.

Delaware: 1961 New York: 1961 U. S.: eligible to join
New Jersey: 1961 Pennsylvania: 1961 Congressional consent: 1961

Delaware River Compact of 1783

Establishes jurisdiction over certain islands in the Delaware River.

New Jersey: 1783 Pennsylvania: 1783

New Jersey (1953) and Pennsylvania (1955) adopted an amendment permitting construction of certain dams on the Delaware River. Congress has not approved the amendment.

Delaware River Compact of 1786

Provides for improvement of navigation on the Delaware River.

New Jersey: 1787 Pennsylvania: 1786

Delaware River Joint Toll Bridge Compact

Establishes the Delaware River Joint Toll Bridge Commission to acquire, construct and administer toll and free bridges across the Delaware River between New Jersey and Pennsylvania.

New Jersey: 1931 Pennsylvania: 1931 Congressional consent: 1935

In 1947 both states and Congress approved an amendment authorizing their respective governors to enter into supplemental agreements to acquire property, construct additional bridges and collect tolls. A second amendment extended the powers and jurisdiction of the commission (New Jersey and Pennsylvania, 1951; Congressional consent, 1952). A third amendment extended the commission's functions to port facilities (New Jersey and Pennsylvania, 1953). Congressional consent to this amendment has not been obtained.

Delaware River Jurisdiction Compact

Establishes boundary jurisdiction and fisheries regulations.

Delaware: 1905 New Jersey: 1905 Congressional consent: 1907

Delaware River Port Authority Compact

Sets up a commission to construct and operate bridges, develop port facilities shared in common by both states and develop a rapid transit system.

New Jersey: 1931 Pennsylvania: 1931 Congressional consent: 1932

Amended in 1951 by both states and approved by Congress in 1952 to rename the Delaware River Joint Commission as the Delaware River Port Authority and to provide for planning, development, and operation of joint facilities. A section was also added regarding rapid transit. Both states in 1963 and Congress in 1964 approved an amendment authorizing the agency to construct new bridges and operate ferries at certain points across the Delaware River.

Delaware Valley Urban Area Compact

Creates a commission to plan for the orderly development of the Delaware Valley Area centering on Philadelphia.

New Jersey: 1966 Pennsylvania: 1965 Congressional consent: 1961[3]

[3] This compact was consented to in advance by Congress (see the 1961 amendment to the National Housing Act, 75 *Stat.* 170, granting Congressional consent to all future compacts for cooperative efforts and mutual assistance in the comprehensive planning for the physical growth and development of interstate metropolitan or other urban areas). This compact is especially noteworthy for inclusion on the commission of representatives from local governments.

DETAINERS, AGREEMENT ON

Facilitates speedy disposition of indictments, information or complaints filed against prisoners of one state by officials of another state.

California: 1963
Connecticut: 1957
Hawaii: 1965
Iowa: 1965
Maryland: 1965
Massachusetts: 1965
Michigan: 1961
Montana: 1963
Nebraska: 1963
New Hampshire: 1959
New Jersey: 1958
New York: 1957
North Carolina: 1965
Pennsylvania: 1959
South Carolina: 1965
U. S.: eligible to join
Congressional consent: 1934[4]

All states, U. S. territories and possessions are eligible.

DISTRICT OF COLUMBIA-VIRGINIA BOUNDARY COMPACT

Establishes a boundary line between the District of Columbia and Virginia.

Virginia: 1946
District of Columbia: 1945
Congressional consent: 1945

Congress consented to the compact on behalf of the District of Columbia.

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[4] This compact was consented to in advance by Congress (see the Federal Crime Control Act of 1934). This Act was repealed and re-enacted in 1949 in order to shift it from Title 18 to Title 4.

DRIVER LICENSE COMPACT

Provides for exchange of information on citations received by non-resident motorists for violations of motor vehicle or traffic laws.

Alabama: 1966
Arizona: 1963
California: 1963
Colorado: 1965
Delaware: 1964
Idaho: 1963
Illinois: 1963
Iowa: 1965
Kansas: 1965
Maine: 1963
Mississippi: 1962
Montana: 1963
Nebraska: 1963
Nevada: 1961
New Jersey: 1966
New Mexico: 1963
New York: 1965
Oregon: 1963
Tennessee: 1965
Utah: 1965
Washington: 1963
Congressional consent: 1958[5]

All states, U. S. territories and possessions are eligible.

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[5] This compact was consented to in advance by Congress (see the Federal Highway Safety Act of 1958).

Establishes an interstate study and recommendatory commission to serve as a forum for the development of educational policy.

Alabama: 1966[6]
Alaska: 1966
Arizona: 1966[6]
Arkansas: 1965
California: 1966
Colorado: 1966[6]
Delaware: 1966
Georgia: 1966[6]
Hawaii: 1966
Idaho: 1966[6]
Illinois: 1966[6]
Iowa: 1966[6]
Kentucky: 1966[6]
Louisiana: 1966[6]
Maryland: 1966
Minnesota: 1965[6]
Missouri: 1966[6]
New Hampshire: 1966[6]
New Jersey: 1966
New Mexico: 1966
New York: 1966
North Dakota: 1966[6]
Ohio: 1965[6]
Oklahoma: 1966[6]
Oregon: 1966[6]
Rhode Island: 1965
South Carolina: 1966
Tennessee: 1966[6]
Texas: 1965[6]
Utah: 1966[6]
Vermont: 1966[6]
Washington: 1966[6]
West Virginia: 1966[6]
Wisconsin: 1966
Wyoming: 1966[6]
American Samoa: 1966[6]
Puerto Rico: 1966
Virgin Islands: 1965
Congressional consent: not required

All state, U.S. territories and possessions are eligible. States participating by executive order must re-adopt the compact by legislative action not later than December 31, 1967. In June, 1966, the Education Commission amended portions of the compact regarding composition of the steering committee and terms for members thereof.

[6] By executive order.

GEORGIA-NORTH CAROLINA BOUNDARY COMPACT

Georgia: 1817
North Carolina: 1819

Congressional consent, although not formally rendered, is implied [see *Virginia* v. *Tennessee* (1893), 148 U.S. 503, 13 *Sup. Ct.* 728].

GREAT LAKES BASIN COMPACT

Creates a commission to undertake studies of the water resources of the Great Lakes basin and to make recommendations with respect to their use.

Illinois: 1955
Indiana: 1955
Michigan: 1955
Minnesota: 1955
New York: 1960
Ohio: 1963
Pennsylvania: 1956
Wisconsin: 1955
Congressional consent: not required

This compact is open to the Canadian provinces of Ontario and Quebec.

GULF STATES MARINE FISHERIES COMPACT

Establishes a commission to protect fisheries along the gulf coast.

Alabama: 1947
Florida: 1947
Louisiana: 1948
Mississippi: 1950
Texas: 1949
Congressional consent: 1949

Illinois-Missouri and Jefferson-Monroe Bridge Compact

Creates a commission to plan, construct and operate a bridge across the Mississippi River.

Illinois: 1965 Missouri: 1965 Congressional consent: 1946[7]

Illinois-Missouri Bridge Compact

Creates a commission to construct a bridge across the Mississippi River at a point near Ste. Genevieve, Missouri.

Illinois: 1965 Missouri: 1965 Congressional consent: 1946[8]

An earlier proposal was adopted by Missouri in 1961. No action was taken by Illinois.

Indiana-Kentucky Boundary Compact

Indiana: 1943 Kentucky: 1942 Congressional consent: 1943

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[7] This compact was consented to in advance by Congress (see the Federal General Bridge Act of 1946).

[8] This compact was consented to in advance by Congress (see the Federal General Bridge Act of 1946).

Interpleader Compact

Allows a court to acquire personal jurisdiction over adverse claimants to property located anywhere within one of the compacting states.

New Hampshire: 1957 New York: 1957 Congressional consent:
New Jersey: 1957 Pennsylvania: 1956 not required

All states, U. S. territories and possessions, as well as any foreign jurisdiction, are eligible. An earlier version, now superseded, was ratified by New York in 1954 and Maine in 1955.

Interstate Civil Defense and Disaster Compact (see Civil Defense and Disaster Compact, Interstate)

Interstate Compact for Supervision of Parolees and Probationers (see Parolees and Probationers, Interstate Compact for Supervision of)

Interstate Compact on Juveniles (see Juveniles, Interstate Compact on)

Interstate Compact on Mental Health (see Mental Health, Interstate Compact on)

INTERSTATE COMPACT ON PLACEMENT OF CHILDREN (see PLACEMENT OF CHILDREN, INTERSTATE COMPACT ON)

INTERSTATE COMPACT ON PUBLIC SCHOOL ADMINISTRATION (see SCHOOL DISTRICT COMPACT, INTERSTATE)

INTERSTATE COMPACT TO CONSERVE OIL AND GAS (see OIL AND GAS, INTERSTATE COMPACT TO CONSERVE)

INTERSTATE LIBRARY COMPACT (see LIBRARY COMPACT, INTERSTATE)

INTERSTATE SANITATION COMPACT (see TRI-STATE COMPACT)

INTERSTATE COMPACT ON WELFARE SERVICES (see WELFARE SERVICES, INTERSTATE COMPACT ON)

IOWA-NEBRASKA BOUNDARY COMPACT

Iowa: 1939 Missouri: 1939 Congressional consent: 1939

IOWA-NEBRASKA BOUNDARY COMPACT

Iowa: 1943 Nebraska: 1943 Congressional consent: 1943

JUVENILES, INTERSTATE COMPACT ON

Establishes cooperative procedures for the out-of-state supervision of juveniles and sets up procedures for their return.

Alabama: 1965
Alaska: 1960[11]
Arizona: 1961[9,10]
Arkansas: 1957
California: 1955[11]
Colorado: 1957[9]
Connecticut: 1957
Delaware: 1963
Florida: 1957[9,10]
Hawaii: 1955
Idaho: 1961[9,10]
Illinois: 1961
Indiana: 1957
Iowa: 1961[11]
Kansas: 1965[9]
Kentucky: 1960[9,10]
Louisiana: 1958[9,10]
Maine: 1955
Maryland: 1966[9,10,11]
Massachusetts: 1955[9,10]
Michigan: 1962
Minnesota: 1951
Mississippi: 1958[9,10]
Missouri: 1955
Nebraska: 1963[11]
Nevada: 1957
New Hampshire: 1957
New Jersey: 1955
New York: 1955
North Carolina: 1963
Ohio: 1957
Oregon: 1959
Pennsylvania: 1956[9]
Rhode Island: 1957[10]
South Dakota: 1961
Tennessee: 1955
Texas: 1965[9,10]
Utah: 1955
Virginia: 1956
Washington: 1955
West Virginia: 1963[9,10]
Wisconsin: 1957
Wyoming: 1965
Congressional consent: not required

All states, U. S. territories and possessions are eligible.

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[9] Adopted Optional Runaway article on following dates: 1957 (Colorado, Florida, Pennsylvania); 1958 (Louisiana, Massachusetts, Mississippi); 1960 Kentucky); 1961 (Arizona, Idaho); 1963 (West Virginia); 1965 (Kansas, Texas); 1966 (Maryland).

[10] Adopted the Rendition amendment on following dates: 1957 (Florida, Rhode Island); 1958 (Louisiana, Massachusetts, Mississippi); 1960 (Kentucky); 1961 (Arizona, Idaho); 1963 (West Virginia); 1965 (Texas); 1966 (Maryland).

[11] Adopted the Out-of-State Confinement amendment on following dates: 1965 (California, Iowa, Nebraska); 1966 (Alaska, Maryland).

Kansas City Area Transportation Compact

Empowers a metropolitan area transit district to construct and operate a transit system.

Kansas: 1965 Missouri: 1965 Congressional consent: 1966

Kansas-Missouri Boundary Compact

Kansas: 1949 Missouri: 1949 Congressional consent: 1950

Kentucky-Tennessee Boundary Compact

Kentucky: 1820 Tennessee: 1819 Congressional consent: 1820

Kentucky-Virginia Jurisdiction Compact

Determined rights and interests in lands severed from Virginia; establishes jurisdiction on the Ohio River.

Kentucky: 1789 Virginia: 1789 Congressional consent: 1791

Klamath River Compact

Creates a commission to apportion the waters of the Klamath River and provides for pollution control.

California: 1957 Oregon: 1957 Congressional consent: 1957

Lake Champlain Bridge Compact

Creates the Lake Champlain Bridge Commission.

New York: 1927 Vermont: 1927 Congressional consent: 1928

New York and Vermont in 1957 and Congress in 1958 approved an amendment providing for the continued toll operation of bridges.

La Plata River Compact

Creates a commission to apportion the waters of the LaPlata River.

Colorado: 1923 New Mexico: 1923 Congressional consent: 1925

Library Compact, Interstate

Permits contiguous states to establish joint library districts.

Idaho: 1965
Maine: 1963
Massachusetts: 1963
New Hampshire: 1963
New York: 1963
North Dakota: 1965
Oregon: 1965
Rhode Island: 1963
Vermont: 1963
Washington: 1965
Wyoming: 1965
Congressional consent: not required

All states are eligible. Illinois and Iowa adopted a variant version in 1961.

MAINE-NEW HAMPSHIRE INTERSTATE BRIDGE COMPACT

Creates the Maine-New Hampshire Interstate Bridge Authority.

Maine: 1937 New Hampshire: 1931 Congressional consent: 1937

MARYLAND-VIRGINIA BOUNDARY COMPACT

Maryland: 1876 Virginia: 1878 Congressional consent: 1879

MASSACHUSETTS-NEW HAMPSHIRE BOUNDARY COMPACT OF 1889

Massachusetts: 1890 New Hampshire 1889

Congressional consent, although not formally rendered, is implied [see *Virginia* v. *Tennessee* (1893), 148 U.S. 503, 13 *Sup.Ct.* 728].

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MASSACHUSETTS-NEW HAMPSHIRE BOUNDARY COMPACT OF 1895

Massachusetts: 1895 New Hampshire: 1895

Congressional consent, although not formally rendered, is implied [see *Virginia* v. *Tennessee* (1893), 148 U.S. 503, 13 *Sup.Ct.* 728].

MASSACHUSETTS-NEW YORK BOUNDARY COMPACT

Massachusetts: 1853 New York: 1853 Congressional consent: 1855

MASSACHUSETTS-RHODE ISLAND BOUNDARY COMPACT

Massachusetts: 1859 Rhode Island: 1860 Congressional consent: 1861

MENOMINEE RIVER BRIDGE COMPACT

Michigan: 1927 Wisconsin: 1927 Congressional consent: 1928

MENTAL HEALTH, INTERSTATE COMPACT ON

Provides for the care and treatment of the mentally ill or mentally deficient persons and provides for interstate cooperation to pool mental health resources.

Alaska: 1959
Arkansas: 1959
Colorado: 1965
Connecticut: 1955
Delaware: 1962
Idaho: 1961
Illinois: 1965
Indiana: 1959
Iowa: 1962
Kentucky: 1958
Louisiana: 1958
Maine: 1957
Maryland: 1963
Massachusetts: 1956
Michigan: 1965
Minnesota: 1957
Missouri: 1959
New Hampshire: 1957
New Jersey: 1956
New York: 1956
North Carolina: 1959
North Dakota: 1963
Ohio: 1959
Oklahoma: 1959
Oregon: 1957
Pennsylvania: 1961
Rhode Island: 1957
South Carolina: 1959
South Dakota: 1959
Vermont: 1959
Washington: 1965
West Virginia: 1957
Wisconsin: 1966
Congressional consent: not required

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All states, U. S. territories and possessions are eligible.

Merrimack River Flood Control Compact

Provides for cooperation in flood control and water resources utilization in the Merrimack River basin and its tributaries.

Massachusetts: 1956 — New Hampshire: 1957 — Congressional consent: 1957

Michigan, Minnesota and Wisconsin Boundary Compact

Michigan: 1947 — Wisconsin: 1947 — Congressional consent: 1948
Minnesota: 1947

Middle Atlantic Interstate Forest Fire Protection Compact

Provides mutual assistance in forest fire prevention and control among compacting states and with states party to other regional forest fire protection compacts.

Delaware: 1955 — Pennsylvania: 1953 — West Virginia:
Maryland: 1956 — Virginia: — Congressional consent: 1956
New Jersey: 1955

See also the Northeastern Interstate Forest Fire Protection, South Central Interstate Forest Fire Protection and Southeastern Interstate Forest Fire Protection compacts.

Military Aid Compact

Provides for emergency mutual military aid and assistance.

Connecticut: 1953 — New York: 1951 — Vermont: 1957
Massachusetts: 1957 [12] — Pennsylvania: 1951 — Congressional consent: 1952 [13]
New Jersey: 1951

All states are eligible. The states listed have passed legislation authorizing their respective governors to enter into mutual military aid compacts. Most of these states have entered into bilateral agreements, but the details of particular adoptions are too complex to be enumerated here.

Minnesota-North Dakota Boundary Compact

Minnesota: 1961 — North Dakota: 1961 — Congressional consent: 1961

Minnesota, South Dakota and Wisconsin Boundary Jurisdiction Compact

Establishes jurisdiction over fish and game in the waters bordering these states.

Minnesota: 1917 — Wisconsin: 1933 — Congressional consent: 1921
South Dakota: 1917

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[12] In 1957 Massachusetts enacted two military aid compacts: one authorized the governor to compact with any of the other five New England states; a second authorized the governor to enter into a compact with New York.

[13] In 1956 Congress amended its original authorization by adding a new subsection which approved in advance any military aid compact(s) between New York or New Jersey and any states contiguous thereto.

MINNESOTA-SOUTH DAKOTA BOUNDARY COMPACT

Minnesota: 1939 South Dakota: 1939 Congressional consent: 1936

MINNESOTA-SOUTH DAKOTA BOUNDARY JURISDICTION COMPACT

Establishes jurisdiction over fish and game in the waters bordering these states.

Minnesota: 1917 South Dakota: 1917 Congressional consent: 1921

MINNESOTA-WISCONSIN BOUNDARY COMPACT

Mutual cession of territory and subsequent change of boundary.

Minnesota: 1917 Wisconsin: 1917 Congressional consent: 1918

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MINNESOTA-WISCONSIN BOUNDARY AREA COMPACT

Creates a boundary area commission for development of the area bordering the compacting states.

Minnesota: 1965 Wisconsin: 1965 Congressional consent: not required

MISSOURI RIVER COMPACT

Sets boundary line between Kansas and Missouri in and along the Missouri River.

Kansas: 1949 Missouri: 1949 Congressional consent: 1950

MISSOURI RIVER TOLL BRIDGE COMPACT

Authorizes the acceptance for and on behalf of the states of Kansas and Missouri of title to a toll bridge spanning the Missouri River.

Kansas: 1933 Missouri: 1933 Congressional consent: 1933

MISSOURI-TENNESSEE BRIDGE COMPACT

Establishes a commission to build a toll bridge and operate the bridge and ferries across the Mississippi River.

Missouri: 1949 Tennessee: 1949 Congressional consent: 1949

NEBRASKA-SOUTH DAKOTA BOUNDARY COMPACT OF 1897

Nebraska: 1897 South Dakota: 1897 Congressional consent: 1897

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NEBRASKA-SOUTH DAKOTA BOUNDARY COMPACT OF 1905

Nebraska: 1905 South Dakota: 1905 Congressional consent: 1905

NEW ENGLAND HEALTH SERVICES AND FACILITIES COMPACT

Creates a board to coordinate plans and programs for improvement of health services and facilities.

Connecticut: Maine: 1963 Massachusetts: New Hampshire: Rhode Island: 1963 Vermont: Congressional consent: not required

New England Higher Education Compact

Establishes a board to promote development and joint use of higher education facilities throughout the region.

Connecticut: 1955	New Hampshire: 1955	Congressional consent: 1954
Maine: 1955	Rhode Island: 1957	
Massachusetts: 1954	Vermont: 1955	

New England Interstate Corrections Compact

Provides for joint use of correctional facilities for confinement, treatment and rehabilitation of criminal offenders.

Connecticut: 1961	New Hampshire: 1961	Congressional consent:
Maine: 1961	Rhode Island: 1960	1934 [14]
Massachusetts: 1962	Vermont: 1961	

See also the South Central Corrections and the Western Interstate Corrections compacts.

New England Interstate Water Pollution Control Compact

Establishes the New England Interstate Water Pollution Control Commission.

Connecticut: 1947	New Hampshire: 1951	Vermont: 1949
Maine: 1955	New York: 1949	Congressional consent: 1947
Massachusetts: 1947	Rhode Island: 1947	

[14] This compact was consented to in advance by Congress (see the Federal Crime Control Act of 1934).

New England Welfare Compact

Permits any resident of the region to receive welfare assistance regardless of normal residence requirements.

Connecticut: 1965	New Hampshire:	Congressional consent:
Maine: 1965	Rhode Island: 1965	not required
Massachusetts:	Vermont: 1965	

New Hampshire-Vermont School District Compact

Establishes an interstate school district between Hanover, New Hampshire, and Norwich, Vermont.

New Hampshire: 1961	Vermont: 1963	Congressional consent: 1963

New Jersey-New York Boundary Compact

New Jersey: 1834	New York: 1834	Congressional consent: 1834

New Jersey-Pennsylvania Turnpike Bridge Compact

Provides for the construction of a bridge across the Delaware River.

New Jersey: 1951	Pennsylvania: 1951	Congressional consent: 1951

New York-Pennsylvania Boundary Compact

New York: 1886	Pennsylvania: 1887	Congressional consent: 1890

NEW YORK-RHODE ISLAND BOUNDARY COMPACT

New York: 1942 Rhode Island: 1942 Congressional consent: 1944

NEW YORK-VERMONT BOUNDARY COMPACT

New York: 1879 Vermont: 1876 Congressional consent: 1880

NORTH CAROLINA-SOUTH CAROLINA BOUNDARY COMPACT

North Carolina: 1815 South Carolina: 1815

Congressional consent, although not formally rendered, is implied [see *Virginia* v. *Tennessee* (1893), 148 U.S. 503, 13 *Sup.Ct.* 728].

NORTH CAROLINA-TENNESSEE BOUNDARY COMPACT

North Carolina: 1821 Tennessee: 1821

Congressional consent, although not formally rendered, is implied [see *Virginia* v. *Tennessee* (1893), 148 U.S. 503, 13 *Sup.Ct.* 728].

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NORTHEASTERN INTERSTATE FOREST FIRE PROTECTION COMPACT

Establishes a commission to promote effective prevention and control of forest fires among party states and with states party to other regional forest fire protection compacts.

Connecticut: 1949
Maine: 1949
Massachusetts: 1949
New Hampshire: 1949
New York: 1949
Rhode Island: 1950
Vermont: 1949
Congressional consent: 1949

This compact is open to Canadian provinces contiguous to the compacting states. See also the Middle Atlantic Forest Fire Protection, South Central Interstate Forest Fire Protection and Southeastern Interstate Forest Fire Protection compacts.

NORTHERN NEW ENGLAND MEDICAL NEEDS COMPACT

Creates Tri-State Regional Medical Needs Board to promote interstate cooperation in research and planning for medical programs and to insure day-to-day medical care in rural areas.

Maine: 1957
New Hampshire: 1957
Vermont: 1957
Congressional consent: not required

OHIO RIVER VALLEY WATER SANITATION COMPACT

Establishes a commission to control pollution of streams of the Ohio River drainage basin.

Illinois: 1939
Indiana: 1939
Kentucky: 1940
New York: 1939
Ohio: 1939
Pennsylvania: 1945
Tennessee: 1949
Virginia: 1948
West Virginia: 1939
Congressional consent: 1940

The Tennessee adoption is conditioned upon subsequent adoptions by Alabama and North Carolina.

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Oil and Gas, Interstate Compact to Conserve

Establishes a commission to promote oil and gas conservation.

Alabama: 1945
Alaska: 1957
Arizona: 1955
Arkansas: 1941
California:
Colorado: 1935
Florida: 1945
Georgia: 1946 [15]
Idaho: 1960 [15]
Illinois: 1935
Indiana: 1947
Kansas: 1935
Kentucky: 1942
Louisiana: 1941
Maryland: 1959
Michigan: 1939
Mississippi: 1948
Missouri:
Montana: 1945
Nebraska: 1953
Nevada: 1955
New Mexico: 1935
New York: 1941
North Dakota: 1953
Ohio: 1943
Oklahoma: 1935
Oregon: 1954 [15]
Pennsylvania: 1941
South Dakota: 1955
Tennessee: 1947
Texas: 1935
Utah: 1957
Virginia:
Washington: 1958 [15]
West Virginia: 1945
Wyoming: 1955
Congressional consent: 1935 [16]

All oil and gas producing states are eligible.

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[15] Associate member.

[16] This compact is unique in that renewal of Congressional approval is required quadrennially. In addition, Illinois and Kansas require that their own respective legislatures re-adopt the compact every four years.

Oregon-Washington Boundary Compact

Oregon: 1957 Washington: 1957 Congressional consent: 1958

Oregon-Washington Fisheries Compact (see Columbia River Jurisdiction Compact)

Pacific Marine Fisheries Compact

Creates a commission for the conservation of fisheries along the Pacific seaboard.

Alaska: 1962
California: 1947
Hawaii:
Idaho: 1963
Montana:
Nevada:
Oregon: 1947
Utah:
Washington: 1947
Wyoming:
Congressional consent: 1947

California, Oregon and Washington approved an amendment in 1961 opening the compact to Alaska, Hawaii or any other state having rivers or streams tributary to the Pacific Ocean. Congress consented to the amendment in 1962.

Palisades Interstate Park Compact

Provides park and recreational facilities in the Palisades area.

New Jersey: 1937 New York: 1937 Congressional consent: 1937

Parolees and Probationers, Interstate Compact for Supervision of

Provides for mutual assistance in crime prevention by creating cooperative procedures for supervising out-of-state parolees and probationers.

Alabama: 1939
Alaska: 1957 [17]
Arizona: 1937
Arkansas: 1937
California: 1937
Colorado: 1939 [17]
Connecticut: 1941 [17]
Delaware: 1937
Florida: 1941
Georgia: 1950
Hawaii: 1957
Idaho: 1941 [17]
Illinois: 1936
Indiana: 1935
Iowa: 1937
Kansas: 1947
Kentucky: 1948
Louisiana: 1938
Maine: 1939
Maryland: 1937
Massachusetts: 1937
Michigan: 1935
Minnesota: 1935
Mississippi: 1948
Missouri: 1945
Montana: 1937
Nebraska: 1937
Nevada: 1949
New Hampshire: 1937
New Jersey: 1936 [17]
New Mexico: 1937
New York: 1936 [17]
North Carolina: 1951
North Dakota: 1941
Ohio: 1937
Oklahoma: 1945
Oregon: 1937
Pennsylvania: 1937
Rhode Island: 1937
South Carolina: 1948
South Dakota: 1947
Tennessee: 1939
Texas: 1951
Utah: 1937 [17]
Vermont: 1937
Virginia: 1938
Washington: 1937
West Virginia: 1937
Wisconsin: 1939
Wyoming: 1939 [17]
Puerto Rico: 1957
Virgin Islands: 1959
Congressional consent: 1934 [18]

All states, U. S. territories and possessions are eligible.

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[17] Adopted the Out-of-State Incarceration amendment, on the following dates: 1951 (Connecticut, Idaho); 1953 (New Jersey, Utah); 1957 (Colorado, New York); 1959 (Wyoming); 1960 (Alaska).

[18] This compact was consented to in advance by Congress (see the Federal Crime Control Act of 1934). This Act was repealed and re-enacted in 1949 in order to shift it from Title 18 to Title 4.

Pecos River Compact

New Mexico: 1949 Texas: 1949 Congressional consent: 1949

Pennsylvania-Virginia Boundary Compact

Pennsylvania: 1779 Virginia: 1780

Piscataqua River Bridge Compact

Creates the Maine-New Hampshire Interstate Bridge Authority to construct a bridge over the Piscataqua River.

Maine: 1937 New Hampshire: 1936 Congressional consent: 1937

Placement of Children, Interstate Compact on

Establishes procedures for the interstate placement of children (either by public or private agencies) for foster care or as a preliminary to possible adoption.

Kentucky: 1966
Maine: 1961
Massachusetts: 1963
New Hampshire: 1965
New York: 1960
North Dakota: 1963
Wyoming: 1963
Congressional consent: not required

All states, U. S. territories and possessions, as well as the Government of Canada, are eligible.

Port of New York Authority

Creates the Port of New York Authority to develop transportation and terminal facilities and promote commerce in the port area.

New Jersey: 1921 New York: 1921 Congressional consent: 1921

Potomac River Compact of 1958

Establishes the Potomac River Fisheries Commission to conserve and improve fishing resources in the tidewater portion of Potomac River.

Maryland: 1959 Virginia 1958 Congressional consent: 1962

This compact is also known as Virginia-Maryland Compact of 1958; it superseded the Potomac River (Virginia-Maryland) Compact of 1785. For a brief discussion concerning the development of the 1958 compact see *The Book of the States, 1960-61,* pages 238 ff.

Potomac Valley Pollution and Conservation Compact

Creates the Interstate Commission on the Potomac River basin which has recommendatory powers concerning abatement of water pollution.

Maryland: 1939
Pennsylvania: 1943
Virginia: 1940
West Virginia: 1941
District of Columbia: 1940
Congressional consent: 1940

Pymatuning Lake Compact

Provides for uniform administration of recreational and park facilities in the lake area.

Ohio: 1937 Pennsylvania: 1937 Congressional consent: 1937

In 1945 both states and Congress agreed to an amendment permitting use of boats on Pymatuning Lake equipped with motors not exceeding a 6 HP rating. A second amendment (Pennsylvania, 1959; Ohio, 1961; Congressional consent, 1961) restricted motor boats to a specified area of the lake. A third amendment, approved by both states in 1963 and Congress in 1964, increased from 6 HP to 10 HP the maximum rating of motor boats permitted to operate on the lake.

Red River of the North Compact

Minnesota: 1937
North Dakota: 1937
South Dakota: 1937
Congressional consent: 1938

This is also known as the Tri-State Water Compact.

Republican River Compact

Creates a commission to apportion the waters of the Republican River basin.

Colorado: 1943
Kansas: 1943
Nebraska: 1943
Congressional consent: 1943

An earlier proposal was adopted and repealed, respectively, by all states in 1941 and 1943. The 1941 proposal was approved by Congress but vetoed by the President.

RIO GRANDE INTERSTATE COMPACT

Apportions the waters of the Rio Grande.

Colorado: 1939 Texas: 1939 Congressional consent: 1939
New Mexico: 1939

This compact replaces a temporary compact of 1929.

SABINE RIVER COMPACT

Creates the Sabine River Compact Administration to apportion the waters of the Sabine River.

Louisiana: 1954 Texas: 1953 Congressional consent: 1954

SAVANNAH RIVER COMPACT

Establishes agreement on boundary and navigation on the Savannah River.

Georgia: 1788 South Carolina: 1788

Congressional consent, although not formally rendered, is implied [see *Virginia* v. *Tennessee* (1893), 148 U.S. 503, 13 *Sup.Ct.* 728].

SCHOOL DISTRICT COMPACT, INTERSTATE

Authorizes establishing and operating interstate public school districts.

Illinois: 1955 Wisconsin: 1955 Congressional consent: 1956

This is also known as the Interstate Compact on Public School Administration. This compact authorizes agreements with adjacent states which have adopted the compact and does not become effective until such agreements have been executed.

SNAKE RIVER COMPACT

Apportions the waters of the Snake River.

Idaho: 1950 Wyoming: 1950 Congressional consent: 1950

SOUTH CENTRAL CORRECTIONS COMPACT

Creates the South Central Interstate Corrections Board to arrange for out-of-state use of correctional institutions for women prisoners.

Alabama:	Kentucky:	Oklahoma:
Arkansas: 1957	Louisiana:	Tennessee: 1955
Florida:	Mississippi:	Texas:
Georgia:	Missouri:	Congressional consent:
Kansas:		1934 [19]

See also the New England Interstate Corrections and the Western Interstate Corrections compacts.

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[19] This compact was consented to in advance by Congress (see the Federal Crime Control Act of 1934). This Act was repealed and re-enacted in 1949 in order to shift it from Title 18 to Title 4.

South Central Interstate Forest Fire Protection Compact

Provides mutual aid in forest fire prevention and control among party states and with states party to other regional forest fire prevention compacts.

Arkansas: 1953	Mississippi: 1954	Texas: 1955
Louisiana: 1954	Oklahoma: 1953	Congressional consent: 1954

See also the Middle Atlantic Interstate Forest Fire Protection, Northeastern Interstate Forest Fire Protection and the Southeastern Interstate Forest Fire Protection compacts.

South Platte River Compact

Apportions waters of South Platte River.

Colorado: 1925	Nebraska: 1923	Congressional consent: 1926

Southeastern Interstate Forest Fire Protection Compact

Provides mutual aid in forest fire prevention and control among party states and with states party to other regional forest fire prevention compacts.

Alabama: 1955	Mississippi: 1954	Virginia: 1956
Florida: 1955	North Carolina: 1953	West Virginia: 1955
Georgia: 1953	South Carolina: 1954	Congressional consent: 1954
Kentucky: 1954	Tennessee: 1955	

See also the Middle Atlantic Forest Fire Protection, Northeastern Interstate Forest Fire Protection and the South Central Interstate Forest Fire Protection compacts.

Southern Interstate Nuclear Compact

Creates the Southern Interstate Nuclear Board and provides for regional cooperation in the development of nuclear energy for peacetime purposes.

Alabama: 1961	Louisiana: 1960	South Carolina: 1961
Arkansas: 1961	Maryland: 1963	Tennessee: 1961
Delaware: 1966	Mississippi: 1962	Texas: 1961
Florida: 1961	Missouri: 1963	Virginia: 1962
Georgia: 1962	North Carolina: 1965	West Virginia: 1964
Kentucky: 1960	Oklahoma: 1965	Congressional consent: 1962

States originally party to the compact approved extending membership to the state of Missouri.

Southern Regional Education Compact

Establishes the Southern Regional Education Board to promote development and joint use of higher education facilities throughout the region.

Alabama: 1949	Louisiana: 1948	Tennessee: 1949
Arkansas: 1957	Maryland: 1949	Texas: 1951
Delaware:	Mississippi: 1948	Virginia: 1950
Florida: 1949	North Carolina: 1949	West Virginia: 1956
Georgia: 1949	Oklahoma: 1949	Congressional consent:
Kentucky: 1950	South Carolina: 1948	not required

Arkansas originally joined in 1949; the legislature subsequently repealed its action, but the state rejoined in 1957. In the mid-fifties the compact was expanded to permit Delaware and West Virginia to join. Delaware adopted the compact in 1955 but withdrew in 1965. The by-laws were amended in the late fifties to expand the membership of the board.

Taxation of Motor Fuels Consumed by Interstate Buses, Compact on

Provides for sharing of taxes on motor fuels consumed by interstate buses and establishes consumption of fuel within the state as the criterion for taxation by each of the party states.

Maine: 1963
Maryland: 1964
Massachusetts: 1963
New Hampshire: 1963
Pennsylvania: 1963
District of Columbia: 1965
Congressional consent: 1965 [20]

All states, U. S. territories and possessions, Canadian provinces and states of Mexico are eligible.

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Tennessee River Basin Water Pollution Control Compact

Creates a commission to promote control and reduction of pollution in waters of the Tennessee River basin.

Alabama:
Georgia:
Kentucky: 1958
Mississippi: 1956
North Carolina:
Tennessee: 1955
Virginia:
Congressional consent: 1958

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[20] For all states and the District of Columbia, Congressional consent was given in 1965. Individual Congressional consent action is required for all states adopting this compact.

Tennessee-Virginia Boundary Compact of 1803

Tennessee: 1803
Virginia: 1803

Congressional consent, although not formally rendered, is implied [see *Virginia* v. *Tennessee* (1893), 148 U.S. 503, 13 *Sup.Ct.* 728].

Tennessee-Virginia Boundary Compact of 1901

Tennessee: 1901
Virginia: 1901
Congressional consent: 1901

Thames River Flood Control Compact

Creates a commission to promote cooperation in flood control and use of the water resources in the Thames River basin.

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Connecticut: 1957
Massachusetts: 1957
Congressional consent: 1958

Tombigbee-Tennessee Waterway Development Compact

Creates Tennessee-Tombigbee Waterway Development Authority to promote development of a navigable waterway connecting the Tennessee and Tombigbee rivers.

Alabama: 1957
Kentucky: 1962
Mississippi: 1958
Tennessee: 1959
Congressional consent: 1958

Tennessee and Kentucky joined the compact, in accordance with provisions of the compact permitting any state(s) contiguous to Alabama and Mississippi to enter the compact upon approval of the latter states.

Tri-State Compact

Establishes the Interstate Sanitation Commission to control and abate water pollution.

Connecticut: 1941
New Jersey: 1935
New York: 1936
Congressional consent: 1935

This is also known as the Interstate Sanitation Compact. In 1955 New Jersey adopted an amendment authorizing the commission to undertake study of air pollution in the New York metropolitan area. New York and Congress accepted the amendment in 1956.

Tri-State Transportation Compact

Creates a transportation planning commission for the tri-state metropolitan area.

Connecticut: 1965
New Jersey: 1965
New York: 1965
Congressional consent: 1961

The commission includes representatives of local governments. This compact replaces the 1959 New Jersey-New York Transportation Agency Compact (see Appendix II).

Tri-State Water Compact (see Red River of the North Compact)

Uniform Motor Vehicle Registration Proration and Reciprocity Agreement

Provides for proration of motor vehicle registration fees.

Arizona: 1964
California: 1955
Colorado: 1955
Idaho: 1955
Illinois: 1962
Iowa: 1960
Kansas: 1956
Missouri: 1959
Montana: 1955
Nebraska: 1960
Nevada: 1955
New Mexico: 1955
North Dakota: 1960
Oregon: 1955
South Dakota: 1961
Washington: 1955
British Columbia: 1961
Congressional consent: not required

All states, U. S. territories and possessions are eligible.

Upper Colorado River Basin Compact

Creates a commission to apportion the waters of the Upper Colorado River basin.

Arizona: 1949
Colorado: 1949
New Mexico: 1949
Utah: 1949
Wyoming: 1949
Congressional consent: 1949

Vehicle Equipment Safety Compact

Promotes uniformity in state laws relating to motor vehicle equipment.

Arizona: 1964
Arkansas: 1965
California: 1963
Colorado: 1963
Connecticut: 1965
Delaware: 1963
Florida: 1963
Georgia: 1964
Idaho: 1963
Illinois: 1963
Indiana: 1965
Iowa: 1965
Kansas: 1963
Kentucky: 1964
Louisiana: 1964
Maine: 1963
Maryland: 1965
Massachusetts: 1963
Michigan: 1963
Minnesota: 1965
Missouri: 1965
Montana: 1965
Nebraska: 1963
Nevada: 1963
New Hampshire: 1963
New Jersey: 1964
New Mexico: 1963
New York: 1962
North Carolina: 1963
North Dakota: 1965
Ohio: 1963
Oklahoma: 1965
Oregon: 1963
Pennsylvania: 1963
Rhode Island: 1963
South Dakota: 1965
Tennessee: 1965
Texas: 1963
Utah: 1963
Vermont: 1963
Virginia: 1964
Washington: 1963
Wisconsin: 1965
Wyoming: 1963
District of Columbia: 1963
Congressional consent: 1958 [21]

All states, U. S. territories and possessions, Canadian provinces and states of Mexico are eligible.

Virginia-Maryland Compact of 1958 (see Potomac River Compact of 1958)

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[21] This compact was consented to in advance by Congress (see the Federal Highway Safety Act of 1958).

Virginia-West Virginia Boundary Compact of 1863

Relates to the cessation of certain counties to the new state of West Virginia.

Virginia: 1863 West Virginia: 1863 Congressional consent: 1866

The Virginia repeal of the cession (*sic*) acts were ruled ineffective to terminate a compact concluded with congressional assent [*Virginia* v. *West Virginia* (1870), U.S. 11 *Wall.* 39].

Virginia-West Virginia Boundary Compact of 1959

Virginia: 1959 West Virginia: 1959 Congressional consent: 1959

Wabash Valley Compact

Sets up a commission as a planning agency for the Wabash Valley basin.

Ilinois: 1959 Indiana: 1959 Congressional consent: 1959

Washington Metropolitan Area Mass Transit Authority Compact

Creates the Washington Metropolitan Area Transit Authority to plan and develop improved transit facilities in the District of Columbia area; coordinates the operation of public and privately owned or controlled transit facilities.

Maryland: 1965
Virginia: 1966
District of Columbia: 1966
Congressional consent: 1966

This compact was created by amending the Washington Metropolitan Area Transit Regulation Compact by adding thereto Title III, the Washington Metropolitan Area Transit Authority Compact. Congress consented to the compact on behalf of the District of Columbia.

Washington Metropolitan Area Transit Regulation Compact

Creates a commission to regulate and improve transit in the area comprising the District of Columbia and adjacent sections of Maryland and Virginia.

Maryland: 1959 District of Columbia: 1960 Congressional consent: 1960
Virginia: 1958

This was amended by both states and Congress in 1962 to include within the Washington Metropolitan Area Transit District the Dulles International Airport and all cities which lie within the metropolitan district, to clarify the commission's jurisdiction over interstate taxicab operations, to provide that the annual report of the commission be submitted on a fiscal year basis, to exempt from the commission's jurisdiction transportation performed by a carrier whose only routes are between points outside the metropolitan district and points within the metropolitan district. In 1963 and 1964, respectively, Maryland and Virginia adopted a second amendment relating to household goods movers and the issuance of permits by a committee to be named by the Washington Metropolitan Area Transit Commission. This amendment has not yet been presented to Congress for consent.

Waterfront Compact

Establishes a joint Waterfront Commission of New York harbor to improve labor conditions in the port district.

New Jersey: 1953 New York: 1953 Congressional consent: 1953

This was amended by both states in 1957 to strengthen the regulatory powers of the commission. Congressional consent was not required.

Welfare Services, Interstate Compact on

Provides welfare services on a reciprocal basis and eliminates barriers of restrictive residence or settlement requirements.

Connecticut: 1961 Maine: 1959 Congressional consent: not required

All states, U. S. territories and possessions are eligible. A modified version of this compact, the Interstate Welfare Compact, was approved at the 1959 annual meeting of the National Governors' Conference. No state has enacted this modified version.

Western Interstate Corrections Compact

Provides for joint use of correctional facilities.

Alaska: 1961
Arizona:
California: 1961
Colorado: 1959
Hawaii: 1965
Idaho: 1959
Kansas:
Montana: 1959
Nebraska:
Nevada: 1959
New Mexico: 1959
North Dakota:
Oklahoma:
Oregon: 1959
South Dakota:
Texas:
Utah: 1959
Washington: 1959
Wyoming: 1959
Guam: 1960
Congressional consent: 1934[22]

States outside the region but contiguous to the western states are also eligible.

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[22] This compact was consented to in advance by Congress (see the Federal Crime Control Act of 1934). This Act was repealed and re-enacted in 1949 in order to shift it from Title 18 to Title 4.

Western Regional Education Compact

Establishes a commission to promote development and joint use of higher education facilities throughout the region.

Alaska: 1955
Arizona: 1952
California: 1955
Colorado: 1951
Hawaii: 1959
Idaho: 1953
Montana: 1951
Nevada: 1959
New Mexico: 1951
Oregon: 1951
Utah: 1951
Washington: 1955
Wyoming: 1953
Congressional consent: 1953

Yellowstone River Compact

Apportions the waters of the Yellowstone River.

Montana: 1951
North Dakota: 1951
Wyoming: 1951
Congressional consent: 1951

SUPPLEMENT C

COMPACTS IN OPERATION IN 1966 WHICH HAD NOT RECEIVED THE CONSENT OF CONGRESS

Compact for Education
Interpleader Compact
Interstate Compact on Juveniles
Interstate Library Compact
Interstate Compact on Mental Health
Minnesota-Wisconsin Boundary Area Compact
New England Health Services and Facilities Compact
New England Welfare Compact
Northern New England Medical Needs Compact
Interstate Compact on Placement of Children
Southern Regional Education Compact
Uniform Motor Vehicle Registration Proration and Reciprocity Agreement
Interstate Compact on Welfare Services

These compacts are described in the alphabetical compilation of compacts included in Supplement B, above, at pp. 71-120.